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GOVERNMENT

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WASHINGTON STATE'S SALMON AND STEELHEAD RESOURCES

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

S. 2163

TO PROVIDE FOR THE CONSERVATION AND ENHANCEMENT
OF THE SALMON AND STEELHEAD RESOURCES OF WASHING-
TON STATE, ASSISTANCE TO THE TREATY AND NONTREATY
HARVESTERS OF THOSE RESOURCES, AND FOR OTHER
PURPOSES

FEBRUARY 11 AND 12, 1980

Serial No. 96-80

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WASHINGTON STATE'S SALMON AND STEELHEAD RESOURCES

MONDAY, FEBRUARY 11, 1980

U.S. SENATE,
COMMITTEE ON COMMERCE,
SCIENCE AND TRANSPORTATION,
Seattle, Wash.

The committee met at 10 a.m. in room 815, U.S. Court House; Hon. Warren G. Magnuson, presiding.

OPENING STATEMENT BY SENATOR MAGNUSON

Senator MAGNUSON. Good morning, everyone, the committee will come to order. The Chair has an opening statement to make and then I'll call on Congressman Lowry after my statement.

Six years ago tomorrow, Judge Boldt handed down his decision, in the case of *United States v. Washington*, granting the Indians treaty rights to one-half the salmon and the steelhead which would pass through their traditional fishing grounds. Six months ago, the U.S. Supreme Court affirmed the decision in most respects, after a number of long battles in the lower courts. While progress has been made in a number of areas in the attempt to live under this decision, there are still some unresolved, outstanding questions.

These hearings are the third and final set of 7 days of hearings by this committee during this Congress on the Northwest's salmon and steelhead issues. Today and tomorrow we will be focusing on the legislation which the administration has proposed on the issues, S. 2163. This bill provides a package of \$90 million—for research, enhancement of the salmon steelhead resources, purchasing of vessels, gear, and licenses from commercial fishermen who have been economically dislocated by the Boldt decision, and for a tribal assistance program.

I have not endorsed the administration's proposal, and I don't think the congressional delegation, as such, does either. I think Congressman Lowry agrees with me. It is a working paper and it will have to be amended in a number of respects to more adequately deal with the problems facing our salmon and steelhead fisheries and fishermen.

That's why we are here today and tomorrow—not to agitate the issue, but to fully explore the views of the State, the tribes, the sport fishermen, commercial fishermen, and the biologists, on this legislation. And I sincerely hope that the witnesses will limit themselves to comments on the proposed legislation, rather than agitate the issue.

We all know what the issue is and we are trying to do our best to solve it. Basically, the issue will require a piece of Federal legislation, so I thought it was a good idea to hear from the people again. I note on the witness list there are people that previously testified when we had the hearings before, but we are glad to hear from you again. I hope you will direct your testimony to the legislation—the proposed legislation—as much as possible. As I said, we have not endorsed the legislation, but it serves as a working paper. We waited for the legislation to come up so we could know distinctly the administration's views.

And with that I will call on Congressman Lowry.

OPENING STATEMENT BY REPRESENTATIVE LOWRY

Representative LOWRY. Thank you, Mr. Chairman. First I want to thank you for the work you have been doing for years to get things to the place where they are now. This \$90 million package before us is, in large part, because of your efforts. Our empowering congressional delegation is vitally interested in this subject. Staff members are present from every one of our congressional members' offices, from Senator Jackson's and Senator Packwood's offices, as well as Congressman AuCoin's office because of the vital importance this issue is in the Northwest. This \$90 million is a start toward the comprehensive answer to the fish and resource problem in salmon and steelhead; a problem that I believe has to be worked out in a comprehensive manner. I really appreciate the work that has been done to get us to the place that we can, now, in the next year move ahead. It is going to be difficult legislation, Senator, to get through the U.S. Congress, incidentally. However, when passed, it will give us a chance to rebuild our vital Washington State fish resource so that all interested parties have a fair opportunity to the resources.

Thank you.

Senator MAGNUSON. Not only is it going to be difficult legislation to get through Congress but it is going to be difficult to get it by the administration. If we amend it drastically, there may be a prospect of a veto. But I think the administration is amendable to getting your views, and amending the legislation, not drastically, but maybe as to the dollar sign. It will be difficult to get through Congress, but we will do the best we can. We would like to hear from you people on your views on this matter. And please, remember that the legislation we are working on is a working paper only; it is sent up for our perusal by the administration. We waited a long time for this.

[The bill follows:]

96TH CONGRESS
1ST SESSION

S. 2163

To provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 15), 1979

Mr. CANNON (by request) introduced the following bill; which was read twice and referred jointly, by unanimous consent, to the Committees on Commerce, Science, and Transportation and Environment and Public Works, with instructions that if and when ordered reported by one committee, the other committee has fifteen days in which to report

A BILL

To provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 PURPOSES

4 SECTION 1. In order to assist treaty and nontreaty har-
5 vesters of the salmon and steelhead resources within the con-
6 servation area established by this Act in the State of Wash-

1 ington to overcome temporary economic dislocations arising
2 from the decisions in the case of United States against Wash-
3 ington, this Act authorizes the establishment of a cooperative
4 program involving the United States, the State of Washing-
5 ton, the Treaty Tribes, and other appropriate parties, to—

6 (1) encourage stability in the commercial fishing
7 and charter fishing industries and improve the distribu-
8 tion of fishing power between treaty and nontreaty
9 fisheries through (a) the purchase of commercial and
10 charter fishing vessels, gear and licenses; (b) loans to
11 Treaty Tribes and treaty fishermen to develop the in-
12 dustry; and (c) coordinated research, enhancement and
13 management of salmon and steelhead resources and
14 habitat; and

15 (2) improve the quality of, and maintain the op-
16 portunities for, salmon and steelhead recreational
17 fishing.

18 DEFINITIONS

19 SEC. 2. As used in this Act, unless the context other-
20 wise requires:

21 (1) The term “charter vessels” means any vessels
22 licensed by the State of Washington to carry passen-
23 gers for hire for the purpose of recreational salmon and
24 steelhead fishing.

1 (2) The term "charter fishing" means fishing un-
2 dertaken by charter vessels.

3 (3) The term "commercial fishing" means fishing
4 for the purpose of sale or barter.

5 (4) The term "commercial fishing vessel" or
6 "fishing vessel" means any vessel, boat, ship, or other
7 craft which is used for, equipped to be used for, or of a
8 type which is normally used for, commercial fishing.

9 (5) The term "conservation area" means all
10 salmon and steelhead habitat within the State of
11 Washington except for the Columbia River drainage
12 basin, and in the fishery conservation zone adjacent to
13 the State, and subject to the jurisdiction of the United
14 States.

15 (6) The term "enhancement" means any measures
16 taken to increase the projection of naturally spawning
17 or artificially propagated stocks of salmon or steelhead,
18 or to protect, conserve, or improve the habitat of such
19 stocks.

20 (7) The term "escapement" means the number of
21 salmon or steelhead which reach their spawning
22 grounds or hatchery facilities and are available for
23 spawning.

24 (8) The term "habitat" means those portions of
25 the land or water, including the constituent elements

1 thereof, (a) which salmon or steelhead occupy at any
2 time during their life cycle, or (b) which affect the
3 salmon or steelhead resources.

4 (9) The term "Northwest Indian Fisheries Com-
5 mission" means the organization established by the
6 Treaty Tribes to assist and coordinate tribal fisheries
7 management within the conservation area.

8 (10) The term "recreational fishing" means fish-
9 ing for personal use and enjoyment and not for sale or
10 barter.

11 (11) The term "salmon" means any anadromous
12 species of the family Salmonidae and Genus Oncorhyn-
13 chus, commonly know as Pacific salmon, including:

14 Chinook (king) salmon—Oncorhynchus
15 tshawytscha;

16 Coho (silver) salmon—Oncorhynchus kisutch;

17 Pink (humpback) salmon—Oncorhynchus
18 gorbuscha;

19 Chum (dog) salmon—Oncorhynchus keta;

20 and

21 Sockeye (red) salmon—Oncorhynchus nerka.

22 (12) The term "salmon on steelhead resource"
23 means any stock of salmon or steelhead, or any habitat
24 of salmon or steelhead, or any habitat of salmon or
25 steelhead.

1 (13) The term "Secretary" means the Secretary
2 of the Interior, unless otherwise specified.

3 (14) The term "State" means the State of Wash-
4 ington.

5 (15) The term "steelhead" means the anadromous
6 rainbow trout species *Salmo gairdneri*, commonly
7 known as steelhead.

8 (16) The term "stock" means a species, subspe-
9 cies, race, geographical grouping, run, or other cate-
10 gory of salmon or steelhead.

11 (17) The term "treaty" means any agreement be-
12 tween the United States and any Indian tribe that re-
13 lates to the reserved right of such tribe to harvest
14 salmon and steelhead within the conservation area.

15 (18) The term "Treaty Tribe" means any Indian
16 tribe or similar entity, with usual and accustomed fish-
17 ing grounds in the conservation area, whose fishing
18 right under a treaty has been recognized by a Federal
19 court or the Secretary of the Interior.

20 TITLE I—COORDINATION

21 COORDINATION GRANTS

22 SEC. 101. (a) The Secretary is authorized to establish a
23 program to provide grants to prepare plans for programs es-
24 tablished in this Act and to promote research and coordinated
25 management of the salmon and steelhead resources within

1 the conservation area consistent with the purposes of this
2 Act.

3 (b) Such grants shall be available for use by the State,
4 the Treaty Tribes, the Northwest Indian Fisheries Commis-
5 sion, or any joint entity established for undertaking research,
6 or providing advice on or mechanisms for coordinated man-
7 agement, or preparing the plans and programs described in
8 this Act.

9 AUTHORIZATION OF APPROPRIATION

10 SEC. 102. (a) There are authorized to be appropriated to
11 the Secretary \$3,000,000 for the purposes of carrying out
12 the provisions of this title.

13 (b) No grant to the State under this title shall exceed 50
14 per centum of the total cost of carrying out the activity for
15 which the grant is made.

16 TITLE II—RESOURCE ENHANCEMENT AND
17 HABITAT MAINTENANCE

18 SEC. 201. (a) AUTHORITY.—The Secretary is author-
19 ized to establish a program to provide grants for projects for
20 the enhancement of the salmon and steelhead resources of
21 the conservation area.

22 (b) PLAN.—Any such project must be in accordance
23 with a comprehensive plan developed and agreed to by the
24 State and the Northwest Indian Fisheries Commission and

1 approved by the Secretary in consultation with the Secretary
2 of Commerce.

3 (c) SCOPE.—The comprehensive plan, and any revi-
4 sions, amendments, or modifications of such plan, shall de-
5 scribe all enhancement projects in the conservation area, and
6 associated stocking policies (when relevant), including any
7 related research on habitat improvement projects, anticipated
8 by the State and the Northwest Indian Fisheries Commission
9 for a period of at least five years.

10 (d) STANDARDS.—The comprehensive plan shall in-
11 clude such standards, including restrictions or conditions as
12 are necessary to assure that any project included in the plan
13 contributes toward the balanced and integrated development
14 of the salmon and steelhead resources of the conservation
15 area. Such standards shall include but not be limited to provi-
16 sions designed to—

17 (1) assure that all commercial and recreational
18 fishermen and the Treaty Tribes within the conserva-
19 tion area shall have an opportunity to participate in
20 the benefits of resources development;

21 (2) protect existing stocks of salmon and steel-
22 head, the biological integrity and diversity of such
23 stocks, and minimize competition and adverse interac-
24 tion between naturally spawning and artificially propa-
25 gated stocks;

1 (3) increase survival of both naturally spawning
2 and artificially propagated salmon and steelhead stocks;

3 (4) ensure that all projects included within the
4 plan are economically and biologically sound and sup-
5 ported by adequate scientific findings; and

6 (5) assure that all projects included within the
7 plan achieve significant benefits relative to the overall
8 cost of each such project.

9 (e) APPROVAL.—(1) The Secretary in consultation with
10 the Secretary of Commerce shall review the comprehensive
11 plan and approve such plan if found to be consistent with this
12 Act and other applicable law.

13 (2) Upon receiving the plan, the Secretary shall—

14 (A) publish a notice in the Federal Register of the
15 availability of the plan;

16 (B) provide a copy of the plan to the Secretary of
17 Commerce, the Secretary of State, the Attorney Gen-
18 eral, the Pacific Fishery Management Council and,
19 upon request, to any other interested person or group;
20 and

21 (C) solicit and consider the comments and views
22 of such Secretaries, the Council, and other interested
23 persons or groups, with respect to the plan.

24 (3) Prior to approving the plan, the Secretary shall—

1 (A) undertake a biological and technical evalua-
2 tion of the plan, in consultation with individuals knowl-
3 edgeable with regard to the salmon and steelhead re-
4 sources of the conservation area;

5 (B) consult with the Secretary of State, with re-
6 spect to the effect of such plan on any international
7 fisheries; and

8 (C) determine whether the State or the Northwest
9 Indian Fisheries Commission, acting through its chosen
10 agency or agencies, has the authority to carry out the
11 plan in accordance with this Act, and any standards in-
12 cluded within the comprehensive plan.

13 (f) REVIEW, MODIFICATION, AMENDMENTS, OR REVI-
14 SIONS.—The comprehensive plan shall be reviewed periodi-
15 cally and may, with the approval of the Secretary in con-
16 sultation with the Secretary of Commerce, be revised or
17 modified as appropriate. The Secretary, the State, or the
18 Northwest Indian Fisheries Commission may request a re-
19 view, modification, or revision of the plan at any time. The
20 Secretary may withdraw approval of a plan when he finds
21 that (1) the plan or its implementation is not consistent with
22 the Act, and (2) no modification or revision has been agreed
23 to by the State and the Northwest Indian Fisheries Commis-
24 sion to correct any such inconsistencies.

1

(3) evidence that the State, the Northwest Indian Fisheries Commission, or Treaty Tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

1 (4) an analysis of, and supporting data for, the
2 economic and biological integrity and viability of the
3 project; and

4 (5) such other information as the Secretary deter-
5 mines is necessary to assure that the proposed project
6 is consistent with the approved plan and the provisions
7 of this Act.

8 APPROVAL AND FUNDING OF PROJECTS

9 SEC. 203. (a) The Secretary may approve any project
10 that is consistent with the approved plan and the provisions
11 of this Act, and shall promptly notify the State, the North-
12 west Indian Fisheries Commission, Treaty Tribes, and upon
13 request any other interested party of the approval of a project
14 and the amount of funding made available under this title for
15 such project.

16 (b) The total Federal share of all enhancement projects
17 funded annually by this section shall not exceed 50 per cen-
18 tum of the total amount expended for such projects, except
19 that this limitation shall not apply to projects proposed by the
20 Northwest Indian Fisheries Commission. The State share
21 may include both real and personal property and may, in the
22 discretion of the Secretary, in consultation with the Secre-
23 tary of Commerce, include such amounts spent by the State,
24 after the enactment of this Act but before approval of the
25 comprehensive plan, for enhancement projects consistent

1 with this Act and the plan. Title to, or other interest in, such
2 property shall remain within the State.

3 (c) The Federal share shall be paid in such amounts and
4 at such times as the Secretary deems appropriate, consistent
5 with this Act and the goals of the comprehensive plan.

6 REVIEW OF ENHANCEMENT PROJECTS

7 SEC. 204. The Secretary shall establish, in consultation
8 with the State and the Northwest Indian Fisheries Commis-
9 sion, a system to monitor and evaluate on a continuing basis
10 all enhancement projects for which funds have been distrib-
11 uted under this Act, and may discontinue or suspend distribu-
12 tion of all or part of the funds if any project is not being
13 carried out in a manner consistent with the comprehensive
14 plan and this Act.

15 AUTHORIZATION OF APPROPRIATIONS

16 SEC. 205. There are authorized to be appropriated to
17 the Secretary, for the purposes of carrying out the provisions
18 of this title, not to exceed the following sums:

19 (1) \$28,000,000 for enhancement projects, to be
20 available over a period of ten years from the effective
21 date of this Act; and

22 (2) \$19,000,000 for operation and maintenance,
23 where necessary, of enhancement projects authorized
24 under this title, to be available over a period of seven
25 years following completion of each such project.

1 TITLE III—COMMERCIAL FISHING FLEET

2 ADJUSTMENT

3 FLEET ADJUSTMENT PROGRAM

4 SEC. 301. (a) The Secretary of Commerce, upon ap-
5 proval of a program submitted pursuant to section 303 of this
6 title, is authorized to distribute Federal funds to the State,
7 subject to the standards, conditions, and restrictions set forth
8 in this title, for the purchase of commercial fishing and
9 charter vessels, gear, and licenses by the State in accordance
10 with the provisions of this title.

11 (b) The Federal share payable under this title shall not
12 exceed 50 per centum in any fiscal year of the total cost for
13 the program in that fiscal year. Title to any vessel or other
14 personal property purchased under a State program approved
15 by the Secretary in accordance with the provisions of this
16 title shall vest upon purchase in the State. If the State sells
17 such vessels or other property, title may pass in accordance
18 with such sale.

19 STANDARDS

20 SEC. 302. The Secretary of Commerce in consultation
21 with the State, shall establish standards for the preparation
22 of the program, designed to—

23 (1) reduce effectively and efficiently the level of
24 fishing effort on the salmon resources of the conserva-
25 tion area;

1 (2) achieve a specific equitable and balanced re-
2 duction in the numbers of commercial fishing and
3 charter vessel licenses and vessels within the conserva-
4 tion area;

5 (3) provide incentives for early retirement of li-
6 censes, or early sale of vessels and gear;

7 (4) set aside specific allocations of funds for each
8 gear type to achieve the specific reductions provided
9 for in the program; and

10 (5) obtain an expeditious reduction in the overall
11 fishing capacity of the non-Indian commercial and
12 charter salmon fishing fleets in the conservation area.

13 PROGRAM APPROVAL

14 SEC. 303. (a) The State shall submit its program and
15 submit revisions, modifications, or amendments to the Secre-
16 tary of Commerce, in accordance with standards established
17 pursuant to section 302 and in such manner and form as the
18 Secretary of Commerce shall prescribe.

19 (b) Prior to approving such program or any revision,
20 modification, or amendment, and authorizing Federal funds to
21 be distributed in accordance with this title, the Secretary of
22 Commerce must find that—

23 (1) the State, acting through its chosen agency or
24 agencies, has authority to carry out a commercial and
25 charter vessel fleet reduction program in accordance

1 with the provisions of this title and any standards es-
2 tablished by the Secretary of Commerce under this
3 title;

4 (2) the State program provides for a restriction on
5 the purchase of any fishing vessel unless all State com-
6 mercial salmon fishing licenses attached to the vessel
7 are also sold to the State;

8 (3) the State program provides that no person
9 may purchase from the State any vessel which that
10 person had previously sold to the State;

11 (4) the State program provides that no person, ex-
12 cept for a member of a Treaty Tribe, may purchase
13 any vessel sold to the State pursuant to the program
14 and use such vessel for commercial or charter salmon
15 fishing in the conservation area;

16 (5) the State program provides for purchase of
17 vessels and gear at their fair market value;

18 (6) the State program provides for the reduction
19 of salmon fishing licenses, through purchase of such li-
20 censes and the use of bonuses and schedules, to—

21 (A) secure an early retirement from the
22 salmon fishery; and

23 (B) recognize productiveness;

1 (7) the State program provides criteria to reduce
2 the number of outstanding marginally productive com-
3 mercial fishermen;

4 (8) the State maintains a moratorium, or similar
5 program, to preclude the issuance of new commercial
6 and charter salmon fishing licenses as of the effective
7 date of this Act; and

8 (9) the State has established a revolving fund for
9 the operation of the fleet reduction program that in-
10 cludes individual accounts for each gear type and that
11 any moneys received by the State from the resale of
12 any fishing vessel or gear purchased under the pro-
13 gram (A) shall be placed in such revolving fund, (B)
14 shall, for at least three years from the date of receipt,
15 be placed in the appropriate gear type account, and (C)
16 shall be used exclusively to purchase commercial fish-
17 ing and charter vessels, gear, and licenses in accord-
18 ance with the provisions of this title.

19 (c) The Secretary of Commerce may approve revisions,
20 modifications, or amendments to the program as appropriate.

21 REVIEW BY THE SECRETARY OF COMMERCE

22 SEC. 304. (a) The Secretary of Commerce shall conduct
23 a continuing review of the State program to determine
24 whether the program remains consistent with the purposes of

1 this Act and the provisions of this title. Such review shall
2 include a biennial audit of the records of the State program.

3 (b) If the Secretary of Commerce finds that the program
4 or the administration thereof is no longer in compliance with
5 this title, he shall reduce or discontinue distribution of funds
6 under this title, or take other appropriate action.

7 (c) If the Secretary of Commerce finds that any money
8 given to the State or obtained by the State from the resale of
9 any fishing vessel or gear purchased under the program is not
10 being used in accordance with the provisions of this title, the
11 Secretary shall recover from the fund and place in the United
12 States Treasury such amount of such moneys as are equiva-
13 lent to the Federal share distributed to the State under this
14 title.

15 AUTHORIZATION OF APPROPRIATIONS

16 SEC. 305. There are authorized to be appropriated to
17 the Secretary of Commerce, for the purposes of carrying out
18 the provisions of this title, \$25,000,000 which shall be avail-
19 able over a period of ten years from the effective date of this
20 Act.

21 TITLE IV—TRIBAL FISHERY DEVELOPMENT 22 PROGRAM

23 TRIBAL PROGRAM

24 SEC. 401. (a) AUTHORIZATION.—The Secretary is au-
25 thorized to establish a program to provide for loans to Treaty

1 Tribes or Treaty Tribe fishing corporations for carrying out,
2 or relending to individual Treaty Tribe fishermen in the con-
3 servation area for carrying out, projects to modernize and
4 develop Treaty Tribe salmon and steelhead fishing
5 operations.

6 (b) PLAN.—Any such loans must be for projects in ac-
7 cordance with a comprehensive plan developed by the North-
8 west Indian Fisheries Commission and approved by the
9 Secretary.

10 (c) SCOPE.—The comprehensive plan shall outline the
11 fishery needs and objectives of each of the various Treaty
12 Tribes and the goals of a development program designed to
13 achieve such needs and objectives.

14 (d) PROJECTS.—Any such loan shall be for projects—

15 (1) for purchase, replacement, or modernization of
16 salmon and steelhead fishing vessels; or

17 (2) for construction, rental, purchase, or improve-
18 ment of fishing facilities related to salmon and steel-
19 head harvesting but not including processing or similar
20 facilities.

21 APPROVAL

22 SEC. 402. No loan authorized under this title may be
23 approved except in accordance with the comprehensive plan,
24 the provisions of this Act, and other applicable law.

1

REVIEW

2 SEC. 403. The Secretary shall conduct a continuing re-
3 view of the tribal program and its implementation to deter-
4 mine whether the program or its administration is consistent
5 with the plan and the purposes of this Act and may discon-
6 tinue or suspend distribution of all or part of the funds if any
7 project is not being carried out in a manner consistent with
8 the plan or this Act.

9

REVOLVING FUND

10 SEC. 404. There is hereby created within the Treasury
11 a separate fund for Treaty Tribal fishery development (here-
12 after in this section called "the fund") which shall be avail-
13 able to the Secretary without fiscal year limitation as a re-
14 volving fund for the purposes of title IV of the Act. The total
15 of any loans made from the fund in any fiscal year shall not
16 exceed limitations specified in appropriation Acts. A busi-
17 ness-type budget for the fund shall be prepared, transmitted
18 to the Congress, considered, and enacted in the manner pre-
19 scribed by law (sections 102, 103, and 104 of the Govern-
20 ment Corporation Control Act, 31 U.S.C. 847-849) for
21 wholly owned Government corporations:

22 (1) The fund shall consist of such amounts as may
23 from time to time be appropriated to provide capital for
24 the fund, and all amounts received by the Secretary as
25 interest payments or repayments of principal on loans,

1 fees, and any other moneys, property, or assets derived
2 by him from his operations in connection with this Act
3 which are deposited in the fund.

4 (2) All loans, administrative expenses, including
5 reimbursements to other Government accounts, and re-
6 payments pursuant to operations of the Secretary
7 under this Act shall be paid from the fund. From time
8 to time, and at least at the close of each fiscal year,
9 the Secretary shall pay from the fund into Treasury as
10 miscellaneous receipts interest on the cumulative
11 amount of appropriations available as capital to the
12 fund, less the average undisbursed cash balance in the
13 fund during this year. The rate of such interest shall be
14 determined by the Secretary of the Treasury, and shall
15 be not less than a rate determined by taking into con-
16 sideration the average market yield during the month
17 preceding each fiscal year on outstanding marketable
18 obligations of the United States with remaining periods
19 to maturity comparable to the average maturity of
20 loans made from the fund. Interest payments may be
21 deferred with the approval of the Secretary of the
22 Treasury, but any interest payments so deferred shall
23 themselves bear interest. If at any time the Secretary
24 of the Interior determines that moneys in the fund ex-
25 ceed the present and any reasonably prospective future

1 requirements of the fund, such excess may be trans-
 2 ferred to the general fund of the Treasury.

3 AUTHORIZATION OF APPROPRIATIONS

4 SEC. 405. There are authorized to be appropriated to
 5 the Secretary of the Interior, for the purposes of carrying out
 6 the provisions of this title, \$15,000,000 which shall be avail-
 7 able over a period of ten years from the effective date of this
 8 Act.

9 TITLE V—MISCELLANEOUS

10 REGULATIONS

11 SEC. 501. The Secretary, or the Secretary of Com-
 12 merce, as appropriate, may promulgate such regulations, in
 13 accordance with section 553 of title 5, United States Code,
 14 as may be necessary to carry out this Act.

15 REPORTS

16 SEC. 502. The State and the Northwest Indian Fisher-
 17 ies Commission shall submit to the appropriate Secretary an
 18 annual report on the status of the programs authorized by
 19 this Act or any other relevant report requested by such
 20 Secretary.

21 RELATION TO OTHER LAWS

22 SEC. 503. Nothing to this Act shall be construed—

23 (1) to diminish either Federal, State, or tribal ju-
 24 risdiction, responsibility, or rights in the field of re-
 25 source enhancement and management, or control of

1 water resources, submerged lands, or navigable waters;
2 nor to limit the authority of Congress to authorize and
3 fund projects; or
4 (2) as superseding, modifying, or repealing any
5 existing applicable law.

Senator MAGNUSON. We will start first with the panel of John Hough, of the Department of the Interior, which proposed the legislation, and Jim Walsh, Deputy Administrator of NOAA, Department of Commerce. We have a long list of witnesses and we want to conclude, if we can, tomorrow night. Congressman Lowry must be back in Washington this afternoon.

All right, John, do you want to go ahead?

STATEMENT OF JOHN D. HOUGH, DEPARTMENT OF THE INTERIOR

Mr. HOUGH. Senator, I am John D. Hough, and I represent the Secretary of the Interior at your hearing this morning, and my statement is on his behalf.

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to discuss S. 2163, a bill to provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and non-treaty harvesters and of those resources, and for other purposes.

This bill authorizes the Secretaries of the Interior and Commerce to establish (1) a cost-sharing program involving improved planning, enhancement, and management of salmon and steelhead resources, (2) a commercial fishing fleet adjustment program, and (3) a loan program to enable treaty tribes to increase their participation in the industry.

The purpose of the bill is to offset the temporary economic instability and exploitation of salmon and steelhead arising from decisions in the case of *United States v. Washington*. Responsibilities will be divided among the Interior and Commerce Departments, the State, and treaty tribes in order to make best use of the skills residing with each group and to allow as many decisions as possible to be made at the local level.

Mr. Chairman, the Department of the Interior favors passage of this bill. We are willing and capable of administering the grant and loan programs designated for the Secretary, but recognize fully that this is a program of and for the State and Indian tribes within the case area of *United States v. Washington*. The Federal role is threefold:

No. 1, to act as a trustee on behalf of the treaty Indian tribes.

No. 2, to assist in the equitable resolution of conflicts regarding salmon and steelhead fishing, and,

No. 3, to assist in improving the management of the fishery. Because overall responsibilities are shared, the proposed Federal funds would be matched equally by recipient of the funds, except for the tribes for whom we act as trustee.

Title I authorizes \$3 million to be administered by the Secretary of the Interior for grants to prepare plans to assure that the purposes of this act are met and to coordinate and promote research and management of salmon and steelhead. This sum would be matched by non-Indian recipients. The amount has been proposed in the President's budget to become available this fiscal year.

Senator MAGNUSON. We just received the President's budget and I didn't see in there any item on this bill, but you see there is—

Mr. HOUGH. Yes, Senator, there is, and it includes the \$90 million. The administration, if it hasn't, Senator, intends to submit the necessary legislation for the appropriation; it is their intention that—

Senator MAGNUSON. The legislation will have to be authorized before the Appropriations Committee can appropriate it.

Mr. HOUGH. In conferring with my colleague from the Commerce Department, he has enlightend me, and recalled something that I knew. Not all of the money is in the coming fiscal year budget, because large portions of that money will not be able to be spent wisely until certain aspects of the problem has been studied and a plan is developed for a management scheme. The money for the fleet adjustment program and some of the other parts wouldn't be appropriate in the next fiscal year.

Senator MAGNUSON. It wouldn't be proper for the Appropriations Committee to appropriate the funds either, would it?

Mr. HOUGH. Not in every case, Senator. I think I speak to a portion of that in the later testimony.

Senator MAGNUSON. All right, go ahead.

Mr. HOUGH. One of our major concerns is to assure that the enhancement program is well coordinated and effective. To achieve this, it is imperative that planning be well done and truly comprehensive so that decisions concerning any activity by the participants in the case area, be it research, enhancement, loans, or management in general, can be measured in terms of the total needs of the fish resources. We are prepared to participate in a coordinated process—a process that shares decisions with fishery experts not only from the Federal agencies but also from the State and the tribes. This effort is necessary as a first step to analyze needs for and participation in subsequent grants.

Title II authorizes a total of \$47 million to be administered by the Secretary of the Interior in consultation with the Secretary of Commerce for grants for enhancement of salmon and steelhead resources—\$28 million available for 10 years—and for operation and maintenance of enhancement projects for 7 years after project completion—\$19 million. These sums would be matched by non-Indian recipients. It is anticipated that this program would not be funded until late in fiscal year 1981 or in 1982 since the comprehensive fisheries enhancement plan must be completed and approved first.

The Fish and Wildlife Service now provides funding and administration through the Anadromous Fish Conservation Act and the Fish Restoration and Management Act (Dingell-Johnson) for grant-in-aid programs to the State of Washington. The Service also assists the several Indian tribes of Washington in developing information and fishing programs that are a direct result of the *Boldt* and Supreme Court decisions.

Mr. Chairman, the success of title II, if enacted, depends upon a carefully planned and coordinated enhancement and conservation program for these important salmonid stocks. To enhance salmon and steelhead trout populations, three basic management tools are required: (1), habitat protection; (2), habitat improvement, and (3), artificial propagation. These are the key elements to increasing the numbers of fish available for harvest.

Title III authorizes \$25 million available for 10 years, to be administered by the Secretary of Commerce for grants for commercial fishing fleet adjustment. This sum could be made available to, and would be matched equally by the State of Washington.

Senator MAGNUSON. Now you are assisting in that procedure?

Mr. HOUGH. That is correct.

Senator MAGNUSON. Go ahead.

Mr. HOUGH. The administration has determined that this responsibility appropriately rests with the Department of Commerce which has greater experience with economic adjustment assistance programs.

Title IV authorizes \$15 million available for 10 years, to be administered by the Secretary of the Interior to establish a program for loans to treaty tribes or treaty tribe fishing corporations to modernize and develop treaty tribe salmon and steelhead trout operations. Of the total sum, \$5 million is requested in the President's budget to be available in fiscal year 1981.

This program is especially appropriate given the Federal trust responsibility toward the tribes. The fishery resource is important to Indian culture, subsistence, and commerce. The program will enhance the capability of the tribes to realize the full benefit of their treaty rights.

Tribal planning for both the enhancement and tribal fishery development programs will be carried out by the Northwest Indian Fisheries Commission, an umbrella organization created several years ago by the treaty tribes to assist and coordinate tribal fisheries management in northwest Washington. This will encourage the further development of a unified tribal voice, which will facilitate Federal-State-tribal resource dealings and help to streamline fishery resource management.

The Department of the Interior through its Indian-related programs has the organization and staff to completely administer this loan program.

Mr. Chairman, we feel that the bill as currently drafted and the funds that are proposed for the various purposes are proper and adequate to protect and enhance the fishery resources of the case area. We urge your speedy approval so that we may get on with the task of management of these important resources.

Thank you, sir.

Senator MAGNUSON. And I thank you. That is a good analysis, John. All right, James.

STATEMENT OF JAMES WALSH, DEPUTY ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. WALSH. Thank you. My name is James Walsh, I am the Deputy Administrator of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce. I am pleased once again to appear before you and to discuss and endorse the administration's proposed legislation. The bill has been introduced by Senator Cannon as S. 2163. It would provide for increased conservation and enhancement of the salmon and steelhead resources of Washington State; for reduction of the number of vessels fishing for these anadromous re-

sources; and for assistance to treaty Indian harvesters of these resources.

Senator MAGNUSON. Senator Cannon introduced the bill. He is chairman of the Commerce Committee.

Mr. WALSH. That is correct. It is a standard procedure for him to introduce the bill for the administration.

Senator MAGNUSON. I've introduced many of them that way.

Mr. WALSH. I remember.

Senator MAGNUSON. All right.

Mr. WALSH. The Pacific Northwest salmon and steelhead problems which were discussed during the Commerce Committee hearing last September still remain serious. This is the result of a combination of factors: One, salmon and steelhead stocks consist of many discrete units that intermix in the ocean and estuaries, causing management difficulties.

Two, a large number of fishermen use a great variety of fishing gear and compete for limited ocean and inland waters resources.

Three, an unusually large number of management entities exists, each with regulatory authority which affects the harvesting flexibility and management schemes of the others.

Four, a decline has occurred in several salmon stocks, including Chinook and Coho in Puget Sound.

Five, major changes in allocations between Indian and non-Indian fishermen have resulted from recent court decisions.

Six, gradual erosion of the available habitat for salmonids is taking place in the Pacific Northwest. Each of these problems is reason for concern. Combined, they are clear justification for seeking means to alleviate pressures on these stocks. In addition, because of the ability of United States and Canadian fishermen to intercept fish originating in and destined for the others' streams, we face an international as well as national problem, a further complicating factor. The Department of Commerce, therefore, supports this important legislation which would establish a State/Federal cost sharing program to alleviate these problems.

The Department has been heavily involved over the past 2 years in seeking a solution to these problems. Most recently, in consultation with other concerned Federal and local agencies, we assisted in the development of the proposal submitted by the administration for congressional consideration. I believe it should become law, and I support the bill.

I would like to take a few minutes to discuss certain provisions of the bill, and to describe how these provisions will complement ongoing salmon activities and contribute to proper management of the Northwest salmon and steelhead resources.

A well-planned program of enhancement, which includes hatcheries and other production facilities, can help to alleviate some of the competitive pressure on the salmon resources. Hatchery fish contribute significantly to salmon catches in the Pacific Northwest. All of the Pacific Northwest States—Oregon, Washington, Idaho, and Alaska—as well as Federal agencies, Indian tribes, and the Canadian Government have made considerable investments in hatchery facilities during the past several decades. Economic studies show that returns

far outweigh costs, sometimes by nearly 10 to 1. We must however insure that enhancement facilities are economically and ecologically sound. We are aware of past mistakes. Some hatchery fish were introduced into unsuitable waters, without regard to impacts on wild strains of fish. This legislation requires that all enhancement projects be funded in accordance with a comprehensive plan. Thus the chance of undertaking undesirable projects is significantly reduced. Furthermore, a balanced approach to enhancement will greatly aid management of the complex salmon fisheries. The merits of undertaking the comprehensive enhancement program, as outlined in this bill, far outweigh any initial difficulties in developing such a plan.

The commercial fleet adjustment program described in title III of the bill can reduce the harvest pressure on salmon and balance the fishing effort between treaty and nontreaty fishermen. Existing fishing capacity far exceeds available resources. In this unhealthy economic climate, many fishermen can no longer make a living. By retiring non-Indian vessels, gear, and licenses, pressure on the resources will lessen; and both the resource and fishermen will benefit. The Department of Commerce supports the proposed fleet adjustment program because it will assist those who face economic difficulties. It will also reduce the number of non-Indian fishing vessels, permitting Indian fishermen to better exercise their treaty fishing rights.

The tribal fishery development program described in S. 2163 complements the fleet reduction program. It will provide treaty Indians with an opportunity to increase their fishing power, modernize their gear, and become more competitive with the nontribal fishermen. This is a worthy objective, in keeping with treaty fishing rights, and one that the Department of Commerce supports.

Since my testimony last September, we have met with representatives of the Canadian Government to identify procedures for solving the problem of salmon interceptions. Both countries have agreed that a satisfactory solution to this problem is imperative, and have vowed to pursue an agreement that would satisfy both countries. During the discussion, four areas of concern were identified:

One: Canadian interceptions of U.S. fish off British Columbia.

Two: United States and Canadian shares of Fraser River sockeye and pink salmon stocks;

Three: The need for cooperation in research on transboundary and southeastern Alaskan stocks.

Four: Methods for cooperation to insure that the benefits from enhancement activities accrue to the sponsors of that enhancement.

The last item is of special interest to this committee because it impacts directly on the enhancement program in S. 2163. Scientists from the United States and Canada are presently developing papers on these issues in order to define precisely areas of agreement and disagreement. Two intensive negotiating sessions are planned for this spring. We are striving for an agreement which will protect enhancement of the kind envisioned by this bill, and I am hopeful that such agreement can be achieved.

Let me reassure you that NOAA and the Department of Commerce consider the salmon resources of the Pacific Northwest one of our most valuable fishery resources. We have in the past and will continue to

support programs to increase salmon and steelhead production, and to alleviate the problems associated with proper management of those resources. I believe legislation is necessary to achieve this goal.

With regard to funding for the program envisaged by S. 2163, we understand that the Department of the Interior has included a 1980 supplemental budget request to assist the State of Washington in developing a total program plan. The Department of Commerce is considering the desirability of developing a funding proposal for the fleet adjustment program upon the completion by the State of their vessel and license buy-back program plan.

We have been negotiating with the Canadian fisheries officials and we have had several meetings with them. Not as much progress has been made as we hope will be, but we do plan some technical meetings this spring to begin to focus on the four problems and the various series of concerns. We will discuss the Canadian interception of U.S. fish off the British Columbia, United States-Canadian Frazer River sockeye and pink salmon stocks, the nature of cooperation in research on transboundary of the southeastern Alaska stocks, and finally methods for cooperation to insure that the benefits from the act's enactment activities accrue to the sponsors of that enhancement.

Senator MAGNUSON. How much is the budget request on that?

Mr. WALSH. As I understand it, it is \$3 million for the planning portion of the bill. There are two other funding parts of the bill; one has to do with enhancement, and the other has to do with the buy-back program. It is the administration's position, because of the fact that a plan is required, that until the legislation passes and the plan is forthcoming from the State and is approved, we will not seek funding. We will ask OMB to submit a supplemental appropriation request at the appropriate time, so we will have money to get the program off the ground to help the State and the Indian tribes.

Senator MAGNUSON. How many are you going to send up for the supplemental?

Mr. WALSH. I don't know, Senator, at this time.

Senator MAGNUSON. Do you know, John?

Mr. HOUGH. Let me refer back to my testimony because I think we make a point there, Senator.

I am sorry, I can't give you a specific answer at this time, but I think I could get one for you later today, and report back.

Senator MAGNUSON. I am about to start hearings on a supplemental bill within the next 30 days.

Mr. WALSH. Senator, it would be very difficult to give a fixed number for the enhancement program projects since funding would depend on how many projects you put in that first year. There is a total authorization, for example, for the enhancement projects of \$28 million, over a 10-year period. Now the first year you might have \$1 million, and for the second year you might have \$20 million, it just depends on how the projects come in, so it will be variable.

Senator MAGNUSON. Are you saying that the legislation has to progress much further than it has before the appropriation committee will take a look at it?

Mr. WALSH. Yes, Senator, I believe that there may be statutory authority for the research portion—the \$3 million that has been re-

quested for section 101 of the bill. I don't know for sure, but under our existing authorities for other anadromous fish programs, we may be able to fund this type of activity.

Senator MAGNUSON. Look that up, because I think we will want to proceed with some supplemental in this matter so we can get things going, before the main legislation is passed. All right. Thank you very much.

The next witness with us would be Dale Johnson of the Northwest Indian Fisheries Commission. Mr. Johnson.

STATEMENT OF DALE JOHNSON, CHAIRMAN, NORTHWEST INDIAN FISHERIES COMMISSION; ACCOMPANIED BY JIM HECKMAN, EXECUTIVE DIRECTOR; GUY McMINDS; BILLY FRANK; GARY PETERSON; AND LORRAINE LOOMIS, COMMISSIONERS

Mr. JOHNSON. I am Dale Johnson, chairman of the Northwest Indian Fisheries Commission, speaking for the commission and its 19-member tribes on Puget Sound, and the Washington coast. Other commissioners and tribal representatives are here with me today to help answer questions the committee may have regarding our testimony.

The Northwest Indian Fisheries Commission is authorized by its member tribes to represent their position on issues affecting treaty fishing rights. The commission functions as the tribes' voice in dealing with ocean fisheries management, Canadian treaty negotiations, and other fisheries matters. It coordinates and centralizes certain tribal fisheries management activities to work more efficiently and effectively with State and Federal fisheries agencies. The commission also provides public information and education on treaty fisheries and tribal fish management.

Mr. Chairman, we appreciate this committee's continued efforts to address the problems facing Washington State and tribal fisheries managers. These hearings, beginning last May, and now focusing on the administration's proposed assistance through S. 2163, demonstrate a sincere interest in protecting and improving a vitally important resource, and in honoring the management roles of the treaty tribes and the State of Washington. We are pleased to have participated in these hearings and to have worked with your committee during the interim.

We also appreciate the administration's intent, in this most recent proposal, to take a comprehensive approach to helping local jurisdictions more effectively protect and improve these resources. Although the bill comes none too soon, its arrival is opportune. It is not too late, if we act quickly, to rehabilitate the salmon and steelhead resources, salvage damaged habitat, and restore the fisheries to a leading role in the Northwest economy. This will take the best efforts of the tribes and the State of Washington, with the Federal Government's help and assurance of speedy action. We are encouraged by the improved atmosphere of cooperation since the U.S. Supreme Court's ruling in *U.S. v. Washington*, and by the progress of joint management programs between the tribes and the State agencies.

The tribes are particularly pleased that this bill does not propose the decommercialization of steelhead, or any other abrogation of treaty rights, but instead directs itself to the protection and enhancement of Indian fishing and tribal fisheries management. The administration's recognition of the need for a comprehensive salmon-steelhead plan is far more enlightened than the abrogationist steelhead decommercialization bill recently proposed independently by a member of this State's congressional delegation. We cannot support that move, since commercial steelhead fishing is a treaty right that has been upheld in the Nation's highest courts. Steelhead fishing provides the livelihood of many treaty fishermen, particularly those of the coastal tribes. We will not support any legislation that proposes the abrogation of any part of our treaties with the U.S. Government or any bill that is inconsistent with the U.S. Supreme Court ruling in *U.S. v. Washington*.

While the draft of S. 2163 addresses many areas where help is needed, we feel that it is incomplete and that its proposed funding levels are insufficient. For example, the \$28 million proposed for enhancement is an unrealistically low figure, falling far short of the more than \$61 million proposed 2 years ago by the administration's own Task Force on Northwest Fisheries. We are not prepared today to recommend precise final funding needs to accomplish all the work necessary for protection of our salmon and steelhead resources. But we will propose some minimum initial funding levels. To assist the administration and the Congress, we have prepared and have attached to our written testimony a redraft of S. 2163 proposing some minor amendments to the original language, addressing additional areas of attention, and suggesting some funding levels we feel are necessary.

The tribes need assurance that fish produced under the comprehensive plans called for in S. 2163 will be protected from interception in fisheries under outside jurisdictions, and will return to local jurisdiction management areas for allocation benefiting both treaty and nontreaty fishermen of the *U.S. v. Washington* case area.

Although one of the stated purposes of the draft bill is to promote research, that subject and its funding are inadequately addressed. A comprehensive, realistically funded research program is essential to any enhancement program, if enhancement efforts are to be intelligently directed toward successful results. Further, the bill makes no provision for fisheries enforcement. Neither the resource nor the fisheries will survive without effective enforcement of regulations governing the harvest. After further study, we may be submitting additional titles to this bill covering these crucial areas of research and enforcement.

We also feel that the bill should provide for the setting of deadlines for the accomplishment of tribal-State comprehensive plans and projects, and incorporate a fast-track mechanism to insure minimal delays in meeting the needs of these resources and those whose livelihood depend on them. Further, the bill should contain explicit assurance that the use of these S. 2163 funds by the tribes and State will in no way impair current channels of ongoing operation and maintenance funding for existing tribal fish production facilities.

We assure Congress and the administration that local management jurisdictions have the mechanisms to develop plans for enhancement,

enforcement, research, and other tribal fish production facilities and programs. We look forward to assisting the Congress as S. 2163 develops through the legislative process.

Thank you very much.

Senator MAGNUSON. We appreciate your directing yourself to the bill, and suggesting certain amendments and modifications on the enforcement angle, as the bill does not address itself to enforcement. I understand that the suggestion of the implication of the bill is that the States will handle enforcement, and the Indian tribes would have enforcement within their own tribal groups. Is that correct?

Mr. JOHNSON. Correct.

Senator MAGNUSON. So the Federal Government would not be involved in the enforcement in this bill, except for violations.

Mr. HECKMAN. The tribes feel that the way that the bill is presented originally left quite a few voids including research, as we mentioned, including enforcement and while it is true the Federal Government funded its own operations, we, and I believe the State, may also suggest that we need support in a coordinated enforcement effort between the tribes and the State. We need help.

Senator MAGNUSON. It was my understanding that the enforcement would be a coordinated effort among the Indian tribes, who would enforce it themselves, among themselves, and that the State would be in charge of enforcement. Therefore there is no need to mention it, as a piece of Federal legislation.

Mr. HECKMAN. We feel that it is needed, and we feel that the record would show the inadequacies of enforcement efforts today, and need for improvements.

Senator MAGNUSON. I know that, but let's not talk about what is past, let's talk about the future. You suggest that we have a flat statement in the Federal legislation that enforcement should be left up to the States and to the Indians, the Indian tribes.

Mr. HECKMAN. Well, we do——

Senator MAGNUSON. It is not necessary.

Mr. HECKMAN. We feel that the primary enforcement effort should be on the part of the tribes and the States, coordinated efforts, we don't want to leave out the option, or the opportunity to call upon Federal assistance if needed though.

Senator MAGNUSON. I can see that, I was just wondering what we should suggest to put in the bill, regarding enforcement, if it is going to be left up to the States and the individual tribes. You are suggesting the setting of guidelines for the tribal part of the program, that funds or the use of funds, out of S. 2163, no way impair the current channels of ongoing operation and maintenance of existing tribal fish production facilities. I don't look upon this legislation as impairment, I think it is to enhance it, don't you? You have your program resolved and it should enhance it.

Mr. HECKMAN. I think we generally agree with that.

Senator MAGNUSON. I don't think they need a piece of Federal legislation that would impair the ongoing operations, or plans that are going on.

Mr. McMINDS. Mr. Chairman, that is always considerable doubt in the mind of the treaty fishermen is the fact that we really haven't

been able to control the ocean fishery and that some of the treaty tribes although they have enhancement programs, haven't been able to get a reasonable share of the resource, so what we are trying to point out is that if it is an enhancement effort, there has got to be effort to balance the taking of salmon from the ocean areas, so that some inside fisheries can partake of the resource. For example, during the hearings in Washington, D.C., I pointed out that certain of the inside non-Indian fisheries were not getting their fair share of the resource because there was a tremendous imbalance in the harvest out of the ocean, and that any enhancement effort has got to take into account the real need to satisfy, first of all, the conservation requirements of native stocks of fish, and second, get into the allocation difficulties and if an enhancement effort is not planned it could upset both of those efforts.

Senator MAGNUSON. If there is an enhancement provision in there, it should be planned, with research and enforcement and everything else.

Mr. McMINDS. All we are saying is that we want to make sure it occurs.

Senator MAGNUSON. You can't specify a piece of legislation to make sure that something is going to happen. There are other ways to make it happen, but your doubts are expressed by past experience. Is that right?

Mr. McMINDS. Yes. That's right.

Senator MAGNUSON. We have the Council now which is supposed to regulate ocean fishing, don't we? We don't need any new legislation for that. You are on the Council now, you can regulate ocean fishing.

Mr. McMINDS. One of the problems is the fact that certain of the obligations are not that clearly felt by the Council, one of them is that you have to get a treaty obligation inside to the tribes, and that their obligation in the plans, are that you have to get an allocation inside for the inside fishermen, and the planning has been a little weak in those areas.

Senator MAGNUSON. I know, I am dealing with the Federal legislation. We don't need any more Federal legislation unless we want to change the complex of the concept, of the Council. That would be a separate piece of legislation, like the 200-mile limit.

Mr. McMINDS. What we are doing is underscoring the problem so that it can be dealt with and hopefully reorganization.

Senator MAGNUSON. I don't think that problem could be dealt specifically with this piece of legislation. It can suggest amendments to the 200-mile limit.

Mr. McMINDS. I assume that the administration people are still here yet, and we want to underscore this—

Senator MAGNUSON. A little lobbying there, huh?

Mr. McMINDS. Well, we want to underscore this for their benefit.

Senator MAGNUSON. They deserve some lobbying, but don't lobby me a lot with it, I appreciate what you are talking about. We are dealing with a piece of legislation here and we probably will have to revise some of the procedures under the 200-mile limit, which would be a separate piece of legislation.

Mr. McMINDS. I think at some point it all has to be coordinated, the various management entities involved.

Senator MAGNUSON. Maybe this legislation will point that out.

Mr. McMINDS. You have a committee of scientific people working on that, and Harold Lokken is going to be talking about that a little later.

Senator MAGNUSON. You want to remember that sometimes we don't spell out the exact wording of what we want. We have a general piece of legislation and in the report on the legislation, we interpret how the legislation should be administered. This may be a good subject for legislation, which I think it would be.

Mike?

Representative LOWRY. I see where it is mandatory to reduce the excessive number of licenses, but if we add on to that, the building of treaty fishermen's capability, don't we have a situation where we are going to have an increased capability of fishing an already over-fished resource?

Mr. Frank?

Mr. FRANK. One of the things that we are concerned about in any kind of buildup of the Indian fleets are that we don't want to see any kind of a fleet buildup until the salmon start to being enhanced at the same time. We don't want to fall into a position like the State of Washington did in the past, of building their fleet without the salmon coming up and the salmon start depleting and the fleet kept on building up, and the Indian people do not want to get into that state—that way of managing, we want to look at the programs, enhance the salmon, as they are enhanced, we will manage accordingly.

Representative LOWRY. Over the last few months I have been told different things about the way the treaty fishermen operate. Do you support a comprehensive answer to this overall rebuilding of the anadromous fish resources, steelhead and the salmon?

Mr. FRANK. On enhancing the steelhead and the salmon? Yes, I think that the steelhead has got to be enhanced, I believe that the Bonker bill, the so-called Bonker bill, of decommercialization of steelheads will not give the sports people one more salmon, the Indian people will continue to catch their 50 percent of the steelhead and continue to use nets to catch them. The Bonker bill will not solve the problem. I think that the problem is that the steelhead has got to be enhanced, it has got to be managed, and in the past it has not been managed, sports people can tell you that, hopefully they will be testifying to that tomorrow instead of testifying to decommercialized steelhead. I think that it is time to get on with this management of steelhead and salmon, for the people of the State of Washington and the Indian tribes.

Representative LOWRY. The comprehensive approach needs a negotiation between all the parties involved within our fishing resource, and as we develop this legislation and develop the comprehensive approach to the fishing problem which is rebuilding the resource, do you know of any case in which the treaty fishermen or the tribes would not support or have broken negotiations that had been made in the past, since I have been told that in the last couple of months that negotiations break down and that the tribes break them, do you know of any case of the tribes breaking contracts with the State or anything, in negotiations on this?

Mr. FRANK. On steelhead?

Representative LOWRY. On any fishing, I am saying that I am told all the time about how the tribes break the negotiations that have been reached, do you know of any case in which this ever happened?

Mr. FRANK. No, I don't. Usually there is a breakdown in the political arena, in the State of Washington, we were talking about steelhead, the State game department will back off and will not come forward and negotiate with the Indian people. The Indian people will negotiate in good faith and will have a plan laid out, but nobody else will come forward, implementing that other side of the plan.

Representative LOWRY. Are you prepared to proceed ahead as has been done in the last year—due to the work of a lot of people—are you prepared to proceed ahead on a comprehensive rebuilding of this resource for all parties who are involved?

Mr. FRANK. Absolutely, the State of Washington and the tribes of Northwest Indian Fish Commission, right now is in the process of writing and negotiating a long range, or a comprehensive plan, and any plan that the Indian people have got on the board, or plan out, will fit into this long-range comprehensive plan.

Representative LOWRY. Thank you.

Now I have one more thing that I would like to ask, that is, that the treaty right is a tribal right? Correct? And so all the time people ask me questions and state, "Well, there are only a very few treaty fishermen that benefit from that tribal right, this is unfair to the rest of the tribe." What is the process that is utilized within the tribal government, as to who will do the fishing, and who will be the fisher persons doing the fishing with that tribal right?

Mr. McMINDS. One of the facts of law right now is that when you get down to the State government the State has the right over the fish, it manages the fish, the tribe is the governmental entity, that was responsible for managing the fish for the tribes. It compares with the State. The tribe has the right to decide what management regimes will be placed on its citizens just like the State has the right to do that for its citizens. Now if you compare the citizenry in the State of Washington and the number of fishermen in the State of Washington, for example—commercial fishermen, and you do an analysis by the ratio of the number of Indian people who are fishermen, and the number in the tribes, you will find out that the number of fishermen in the State are far less in ratio, than the tribal fishermen, and the tribal resources of the fishery kind of work hand in hand. That is why in the treaty negotiations the Indians felt so strongly about their fisheries. Fishing was livelihood for the Indian people and today large percentages of the people of the tribes are fishermen. A large percentage of the people in the tribes were dislocated from the fishery from 1855 on down to the present. The process of relocation has to go on, or is going on, slowly, because people really don't know where they are at yet. Then recently the Supreme Court decision helped clarify it, but what is holding it up now is legislation that has been introduced in the House and this legislation has the people wondering exactly what is going on as far as them entering the fishery, and what percentage of the fish are we going to have in the final outcome?

So in answer to your question, the tribe is the unit of government, that gives out the privilege of fishing to its individual members, it is the unit of government that decides how those resources shall be used, just like the State does.

Representative LOWRY. Are those tribal leaders elected just as we are?

Mr. McMINDS. That's right.

Representative LOWRY. Thank you, and thank you for your constructive attitudes in our attempt toward resolving this fishing issue.

Senator MAGNUSON. Now are you talking about steelhead only?

Mr. McMINDS. Yes.

Senator MAGNUSON. That is the sole thrust of the Bonker bill. Now title IV of the bill provides about \$15 million to the various tribes. How will that money be spent? How will the Commission divide the money among the various tribes? What criteria do you use to spend the money, if we get the bill passed? Would the amount be the same?

Mr. HECKMAN. I believe this particular title or portion of the bill is much like other portions of the bill which we are not prepared at this time to suggest that that is the appropriate amount of money, or exactly how it will be spent. You will notice that in our testimony here today we suggested that some of the dollars proposed by the administration, in the other portions of the bill, were inappropriate and not fully thought out, or planned, and yet we do propose that the mechanisms are in place to provide the details, and the total amounts of money necessary for enhancement or research.

Senator MAGNUSON. Whatever amount of money you ultimately get, you have to have it in hand, don't you?

Mr. HECKMAN. Correct.

Senator MAGNUSON. And you want to know whether it is going to pass or what the amount is going to be. You must have been thinking about some plan within your tribal councils, to distribute the money if you get it, or have you made plans for that yet?

Mr. HECKMAN. We have certainly thought about it.

Mr. McMINDS. One of the basic problems we have of dividing up an amount of money, is that we don't know what kind of resource we are going to get yet. I think we might as well state our position to you on this section of the bill. We are not in favor of gear-up in the present form, as it appears in the bill. As we testified in the House hearings, in the District of Columbia several months ago, we pointed that out. We are not in favor of it, because we don't want to make the same mistakes the State has made, in allocating its resources, and we do want to have a better handle on what is going to be coming in, so that we can make some judgments as to how we are going to divide up the pie, if it is there.

Senator MAGNUSON. You are going to have a fight aren't you?

Mr. McMINDS. I don't think we will have a fight.

Senator MAGNUSON. I mean there is going to be some real discussion on how you divide it up; if you get it, isn't that right?

Mr. McMINDS. Well, I'll answer it this way, between the sport and commercial fishermen, on the ocean, there is a fight going on for allo-

cation, and whenever there are resources available to a group of people there is going to be competition, but I will venture the Indian people can get together and form a much better plan and are much more amenable to talking to each other about allocating resources, than a lot of the people who are competing in other sections of the industry.

Senator MAGNUSON. The Quinault Tribe last week took a position that they are entitled to 100 percent of the production from their river. Why should Congress provide 1 cent in the bill to the tribes for enhancement if they are going to turn around and claim the rights for all of the fish that results from the enhancement?

Mr. McMINDS. I don't know where you got your information, Senator, but that is not correct.

Senator MAGNUSON. I am glad it is not correct.

Mr. McMINDS. It's not correct.

[The source material to which Senator Magnuson referred follows:]

JANUARY 28, 1980.

To: Hon. Walter E. Craig, U.S. district court judge.

From: Frederick E. Olney, Chairman, Fisheries Advisory Board.

Subject: Queets, Quinault, and Humptulips steelhead fisheries.

ISSUE

The meeting was convened at the request of the Washington Department of Game to discuss harvestable numbers for the Queets and Humptulips Rivers, and to request a closure of the Quinault River Steelhead Fishery because the tribe's catch had reached 50 percent of the harvestable number.

RESULTS

The Board agreed that there was no immediate escapement or allocation problem on the Queets River and agreement was reached on the harvestable number and escapement goal. The parties also agreed that the question of an in-session adjustment of the harvestable number for the Humptulips River could be resolved outside of the FAB. The FAB was unable to agree on the Quinault issue. I recommended that the parties try to reach agreement as soon as possible on the harvestable number, sport catch and whether escapement was a problem. I recommended that the FAB ask the Court to answer the question of whether steelhead produced on the reservation were excluded from the sharing formula based on the factual information presented by the Board. The Quinault Tribe would not agree to this approach because they had factual information, other than technical fisheries information, that would have to be presented to the Court outside of the FAB.

The meeting of the Fisheries Advisory Board was convened in person at the offices of the Northwest Indian Fisheries Commission at 1:00 p.m. on January 25, 1980. Designated representatives were Jim Harp and Francis Rosander for the Quinault tribe to discuss Queets River and Quinault River issues, respectively, and Garry Garrison, for the State. Also participating were Peter Hahn and Jim Johnson for the State and Guy McMinds, Karen Harp, Phil Roger and Joanne Foster for the tribe. Mr. Garrison began by explaining that the State and the tribe had worked together on an analysis of the harvestable numbers for the Queets River and that a few points needed clarification. Mr. Garrison also stated that there was a possibility of more harvestable steelhead for the Humptulips River and that the State and the tribe had reached an impasse on the Quinault River on closing the fishery because the tribe had exceeded 50 percent of the harvestable number.

Phil Roger was called upon and reported that the in-season method used for Queets River steelhead was the same method for Queets Coho and chinook and also Hoh River steelhead. The pre-season run size estimate of 6,100 steelhead had been increased to 8,100 which was consistent with increases on other coastal streams. He said the escapement goal was 3,500 which left 4,600 harvestable

and that the tribal net match to date was 1,636 or 37.7 percent of the harvestable.

Mr. Hahn said the escapement goal of 3,500 is relative to the estimation methodology, that this figure may not be the optimum, but that the Department would accept the goal for now. He added that the Department's position was that the tribe's share of the harvestable was 2,300 steelhead based on a 50 percent allocation.

Jim Harp said that the tribe was trying to distribute their effort over time and had made good progress in increasing escapement. The fishery has been cut back to two days per week. He said that the escapement goal of 3,500 was set strictly for this year. Mr. Harp also said that there was little information available on what was going on in the sport fishery and there were problems with enforcement in the Upper Queets river system. Mr. Garrison replied that the Department does not have an enforcement capability in the area because the river is located in Olympic National Park.

Mr. Garrison made a motion that the tribe accept the figure of 8,100 for run size, 4,600 harvestable and 3,500 for the escapement goal, realizing that the tribe will take the remaining harvestable (614) in the 2 days-per-week fishery and then close.

Mr. Roger said that the four days-per-week fishery was taking about 250 steelhead a week and that they projected that the 2 days-per-week fishery would take 125 per week which left 5 weeks to harvest the 614. Mr. Harp said that he agreed with the numbers but wondered whether the sport fishery could take their share or whether, because of the lack of enforcement, that overharvest might occur. He also stated that sport catch estimates are only based on punch card data and not on creel census information.

Mr. Hahn said that it is difficult and expensive to conduct a creel census when the catch is relatively low and the effort is spread over a large area. He said that if the 50/50 sharing formula was instituted, he expected the sport catch to increase and a creel census would then be feasible.

Mr. Harp said that the tribe had made a conscious effort to provide adequate fish for escapement. He also said that he was concerned about interpreting the Supreme Court ruling strictly to mean that 50/50 was a must. Mr. Hahn said that it was his opinion that in no way will there be overescapement in the Queets system. He referred to past harvests as high as 11,000 steelhead.

Mr. McMinds questioned the accuracy of the sport catch estimates from punch card data and also stated that areas of exclusive federal jurisdiction may have to be treated differently in determining allocation. He specifically questioned whether non-punches were taken into consideration. Mr. Hahn said that in the areas where they have conducted the creel census that the Department has corrected for non-punches. This bias has been used to correct punch card data for the Queets River. Mr. Harp requested that a letter dated January 9, 1980, from Mr. Jeff Cederholm to Mr. Jack Ayerst be attached to the FAB report. The letter refers to the non-punching of steelhead in the Clearwater River (a tributary of the Queets River). Mr. McMinds suggested that a study on the lower Queets and Quinault Rivers could be conducted to verify catch and effort information for the sport fishery.

Both parties agreed to get together and discuss ways of improving sport catch estimation and enforcement on the Queets River system. The Park Service will have to be involved because much of the Queets system is located in Olympic National Park.

Mr. Garrison and Mr. Harp agreed to the harvestable number of 8,100, the escapement goal of 3,500 for this year and that the 2 days-per-week fishery currently presented no threat to the run and presented no immediate problem with allocation. The tribe did not agree at this time to close after harvesting 614 more steelhead because they did not want to get locked into 614 as the number remaining in the treaty allocation. It was agreed that the tribe and the Department would continue to evaluate the fishery for possible adjustment of the harvestable number and that they would have further discussions on problems of enforcement and estimation of sport harvest.

Mr. Garrison said that the tribe and the Department exchanged data on harvestable numbers and that the tribe had estimated that there were 4,713 harvestable steelhead for the Quinault River. The tribe's harvest from November 1, 1979 to January 25, 1980, was 2,742 steelhead. He said that their harvest exceeded the allocation established by the court and made a motion that the Quinault tribe close their fishery.

Mr. Rosander said that 76 percent of the steelhead in the Quinault River arise on the reservation and that it's the tribe's position that they should be able to harvest a higher percentage because of this. Mr. Roger said the figure of 4,713 harvestable was a pre-season prediction and the after making an in-season adjustment, he had increased the harvestable number to 5,000 steelhead. Based on hatchery contribution, 35 percent of the harvestable (or 1,750 fish) are hatchery fish produced at two facilities on the reservation: (1) the tribal pens at Lake Quinault, and (2) Quinault National Fish Hatchery. The remaining harvestable (3,250) are of native origin with 64 percent (2,080) from on-reservation rearing areas and 36 percent (1,170) from off-reservation rearing areas above Lake Quinault. The total on-reservation production of hatchery and native steelhead amounted to 76.6 percent of the total production from the Quinault River system. Therefore, 3,830 of the harvestable steelhead arose on the reservation and 1,170 arose off the reservation. The tribe's position is that they are entitled to all the harvestable fish resulting from on-reservation production and half of the harvestable fish resulting from off-reservation production or a total tribal share of 4,415 steelhead (88.3 percent of the harvestable).

Mr. Garrison said that all the tribes are sharing the production from the state hatcheries and wondered why the Quinault Tribe wouldn't do likewise. He said that they had not had a chance to review the tribe's figures on estimating harvestable fish, but said that for the purposes of this discussion, they would agree on 5,000 harvestable steelhead.

I asked Mr. Rosander if the tribe had an estimate of the sport catch from their guide service fishery on the reservation. Mr. Rosander said that the catch had amounted to nothing to date because of water conditions. Conditions have improved lately and he expected the guides to start fishing this weekend. He said that, based on information from a number of guides, each guide averaged about 3.5 steelhead per trip. Mr. Roger said the 15 guides fish from one to four trips per week for an average of two trips per week. The guide season is over an 18-week period and would have a potential harvest of 1,890 steelhead. Mr. Roger said that catch records were kept last season on a voluntary basis and that the tribe is currently trying to compile all the available data from the guide fishery.

Mr. Roger said that sport harvests had not been cranked into the harvestable estimate. The tribe's estimate of 1,890 for potential harvest in the guide fishery was much greater than the punch card estimate of 135 fish for the 1978-79 season. Mr. Garrison said that the punch card data was for the entire river and that fishermen fishing on the reservation were supposed to punch their cards like fishermen off the reservation. Mr. Rosander said that there were a lot of non-punched steelhead caught on the reservation. Mr. Garrison asked if the tribe had considered issuing permits for bank fishing. Mr. McMinds responded that the guide is the permit and that fishermen often fished from the bank. Mr. Garrison restated his motion. Mr. Roseander maintained that the fish produced on the reservation are for the tribe and that they were willing to share equally the portion produced off the reservation. Since there was a disagreement, I was asked to present my recommendation. I said that I wanted to review the facts presented over the weekend and that I would make my recommendation on Monday afternoon on the Quinault issue.

It was agreed that the question of adjusting the harvestable number for the Humptulips River could be handled at a later date. Mr. Rosander indicated that the tribe had closed the Chehalis River effective January 27, 1980, and that the Humptulips was scheduled to close on January 31, 1980. The meeting adjourned at 4:30 p.m.

The meeting on the Quinault issue was reconvened by telephone at 2 p.m. on January 28. Mr. Rosander was the designated representative for the tribe and Mr. Garrison represented the State. Also participating were Phil Roger and Joanne Foster for the tribe and Pete Hahn for the State. I stated that after reviewing my notes, there were a number of technical issues that needed further resolution. Most notably was that the harvestable estimate was developed without considering the sport catch.

Mr. Roger said the harvestable estimate was derived only from net catch data using the base period of the previous two years of fishing. He said the estimate of guided sport catch on Friday was not included in the harvestable and should be viewed as a minimum. He added that there was only one year's estimate of sport harvest on the reservation, that they had no indication of the

variability, and therefore that it would be difficult to factor the sport harvest into the harvestable estimate.

Mr. Hahn said that the estimate for sport catch on the reservation for last year is a possible potential but he doubted that that many fish were actually caught. He said the punch card data showed a harvest of 100-200 steelhead for the entire river. He said that we needed to know what percentage of the guide-caught fish were punched on the punch cards.

Mr. Rosander said that he had talked to some of the guides and was told that not many of the clients punched their cards. He thought that there could be as many as 10 fish unpunched for every one punched. Mr. Garrison said that this was not based on good factual information. I asked whether the two parties could reach a compromise on the sport catch. Mr. Hahn said that he felt uncomfortable working with the guide figures because it was difficult to come up with numbers without factual information. Mr. Roger said that we either need more time to develop a number, ignore it, or treat it within the limit of variability on the current harvestable estimate and go with 5,000 harvestable steelhead. Mr. Roger expanded the punch card data using the factor of 10 for unpunched fish and arrived at an estimate of 1100 for the sport harvest. Mr. Hahn said that he didn't like the extrapolation. Mr. Garrison felt the exercise was immaterial because the tribe had reached their allocation. I explained that we needed to determine the location and number of fish caught if the tribe's was closed immediately and similar figures if the tribal fishery continued open. Also need to examine the question of wastage if the tribe was closed immediately.

We then developed two separate estimates of harvestable steelhead using an upper and lower estimate of sport catch. The lower estimate was based on the punch card data and the upper limit on the guide catch. Mr. Roger used last year's estimate of guided catch of 1890 steelhead and last year's net catch to arrive at a ratio of guide catch to net catch of 43.4 percent. He then applied this ratio to the tribe's projected net catch for this year of 4,415 and estimated a guide catch of 1916. He said that this is the potential guide catch under normal fishing conditions. The guide fishery has been totally inactive because of poor water conditions. The guide fishery is expected to be effective for only eight weeks this year (to the end of March). He estimated a guide fishery harvest of 852 based on 8 out of 18 weeks of fishing remaining for this season. He then factored the potential guide catch of 1916 into the previous estimate of harvestable steelhead to arrive at an adjusted estimate of 6916. *Under the State's interpretation of allocation, he said the tribe would be entitled to half or 3,458 fish.* Subtracting the harvest of 2,742 steelhead to date left 716 harvestable steelhead.

Mr. Roger said that 35 percent of the harvestable (2,421 fish) are of hatchery origin and arose on the reservation, 64 percent (2,877 fish) of the remainder, which are of native origin, were produced on reservation, and 36 percent (1,618) were produced off-reservation. *Under the tribe's interpretation of sharing, he said they are entitled to all of the on-reservation production (5,298) and half of the off-reservation production (809) for a total of 6,107.* Mr. Roger subtracted the harvest to date (2,742) from their share which left 3,365 steelhead remaining to be harvested by the tribe.

Mr. Hahn included punch card data in his analysis and arrived at a harvestable estimate of 5,276 steelhead which was then called the lower estimate of harvestable, factoring in sport catch. *The tribal share or half was at 2,638 steelhead.* The total of 1,847 steelhead out of the harvestable were of hatchery origin and 3,429 were of native origin. Of the native production, 2,195 were produced on-reservation and 1,234 were produced in off-reservation waters. Using the tribe's interpretation of sharing, he arrived at a tribal share of 4,659 steelhead. He then subtracted the harvest to date of 2,742 and arrived at a remaining tribal harvest of 1917.

Mr. Hahn said that if the tribal net fishery was closed immediately 2,534 steelhead remained to be harvested using the lower estimate of harvestable (5,276). I asked the tribe and the State to run through an analysis of where these fish would be caught. Mr. Hahn said that the method of determining the lower estimate of harvestable numbers assumes that the catch in the guide fishery is included in the punch card estimate. The sport harvest, estimated from punch card data, amounted to 108 steelhead during the 1977-78 season and 135 during the 1978-79 season. Mr. Roger said that 35 percent (887) of the remaining har-

vestable (2,534) were hatchery fish produced on the reservation. The remaining fish were of native origin with 593 from off-reservation waters and 1,054 from on-reservation. A total of 1,941 steelhead would be expected to remain on the reservation for the guide fishery after combining the hatchery and on-reservation fish. Mr. Roger said that he expected some of the hatchery fish to stray to off-reservation areas.

I asked Mr. Rosander whether he expected the guide fishery to pick up if the net fishery was closed. He said that it wouldn't increase much because the present guides have a limited amount of time. I asked whether we could expect any hatchery surplus if the net fishery was closed immediately. Mr. Roger said that returns to Cook Creek Hatchery are well ahead of last year and that there was a potential surplus there this year. Mr. Roger said that it would be difficult to harvest these surpluses because there are no facilities for the fish to return to at Lake Quinault and the fish hold at the mouth of Cook Creek.

Mr. Hahn said that additional fish in the escapement would be beneficial because sport catch above Lake Quinault was as high as 821 fish per year in the early 1960's and only 108 during the 1977-78 season. He said that there is a correlation between sport catch and escapement and he doesn't believe that we're getting adequate numbers above the lake. Mr. Roger supported his observation of the upper river areas and said that there has been a reduction in escapement in the areas above Lake Quinault but that escapement into the remainder of the system has remained fairly steady. He said that in light of the current hatchery programs, the trade-off is hatchery surpluses for the increased escapement above the lake.

I asked whether there would be overescapement of native fish on-reservation. Mr. Hahn said that it was his judgmental opinion that overescapement of wild fish was currently not a problem in any river in Western Washington. Mr. Roger said that the extent of overescapement cannot be determined until after spawning ground surveys are conducted. He said that there were a lot of areas in the lower Quinault River not desirable for spawning. Mr. Roger said that surpluses created on the reservation will be using the better habitat which should already be used adequately by native spawners. Mr. Roger said that he could only present a subjective analysis at this time, and that a better assessment could be provided by Larry Lastelle. Mr. Hahn said that we also have to take into account that some fish survive spawning to return again and that this is one reason why he is not worried about overescapement. There was agreement that the State and the tribe would get together during the next few days for further resolution of the escapement issue.

I asked whether the tribe could temporarily close the fishery while the legal questions were being answered and still be able to harvest the remaining steelhead if their interpretation of the sharing formula prevailed. Mr. Rosander said that they would not be able to harvest the remaining fish that they believed they were entitled to if they were closed down now. Mr. Roger said that pre-season analysis of their sockeye run indicated that they should be cautious about a fishery on that stock. March and April are managed primarily for sockeye and it may be difficult to catch up on steelhead if that run is poor.

I asked if we could agree on harvestable numbers. There was a problem with coming up with agreed upon sport catch estimates. Both the State and the tribe agreed to work together during the next few days to resolve the problem of sport catch and harvestable numbers. Both parties indicated that reaching agreement on the technical issues was not a serious problem.

I asked whether it was a correct assumption to say that the on-reservation sport fishery would have to be promoted in order to harvest surplus fish and increase the sportman's share. Mr. Rosander said that it was possible in the future that production of the guide fishery would take the surplus steelhead but not this year.

Mr. Garrison repeated his motion that the Quinault Tribe had reached their allocation and requested that they close their net fishery. Mr. Rosander would not second the motion. Since the board was unable to reach agreement, they asked for my recommendation.

I said that the parties were not that far apart on the technical issues. I recommended that they continue to work together over the next few days to resolve their disagreements over the harvestable number, sport catch and escapement. Since the major area of dispute was a legal question of whether the Quinault Tribe was entitled to a larger share of the steelhead. I recommended that once

the technical issues were solved, that we submit an FAB report to the court to that effect, and ask the court to answer the question of whether the Quinault Tribe could exclude steelhead produced on the reservation from the sharing formula. Ms. Foster informed the board that the Quinault Tribe had other factual information, other than technical fisheries information, that would have to be submitted to the court outside of the Fisheries Advisory Board. Therefore, they did not agree with the court answering question based only on the factual information submitted by the Board in the FAB report.

The meeting was adjourned at 4:45 p.m.

UNIVERSITY OF WASHINGTON,
Seattle Wash., January 9, 1980.

Mr. JACK AYERST,
Chief, Washington State Game Department,
600 North Capitol Way, GJ-11,
Olympia, Wash.

DEAR JACK: As you know I have been making steelhead redd counts on the Clearwater River and its tributaries for several years. Each year I have been sending you a copy of my results. Enclosed is a copy of the summary of my surveys from 1973 to 1979.

It is my opinion that the escapements to the Clearwater River system have shown steady improvement since the record low escapement of 1974. The best year on record was 1978 when we had 6.4 redds per mile (peak survey) compared to the worst year in 1974 when we had 0.93 redds per mile (peak survey). It is also my opinion that the Queets-Quinault Tribe has recognized the need for managing for escapement in their commercial fishery. The sport take in the Clearwater is relatively small; but I think many fish have been taken illegally (not recorded) due to the remote nature of this river and the difficulty of enforcement. I am hopeful, however, that the Clearwater Winter steelhead runs will continue to improve in the future.

I define a steelhead redd (in the below tables) as one female's complete complement of eggs, and a redd may be composed of up to 2 or 3 large nests. Before 1977, I counted total redds (judgement on my part); but since then I have included the total number of nests making up a redd in my aerial surveys. If one wanted to change my redd survey counts (before 1977) to nest counts then one must multiply total redd number on a given survey by 1.3.

I will continue to make these surveys for at least one more year. I hope this information is helpful.

Sincerely yours,

C. J. CEDERHOLM,
Fishery Biologist.

Senator MAGNUSON. All right.

Now the steelhead problem is bound to become an issue in this bill, it is not specifically mentioned in the bill—steelhead. But we are going to consider it as being part of the bill. I think the Indian commission has been trying to work that out, have you not?

Mr. McMINDS. Early on, in 1975, the tribes made a proposal to the Washington State Department of Fisheries and Game, on the coast, and in the task force discussion, the tribes tabled numerous documents saying exactly what they would do with the resources, an example is that on the coast we proposed to enhance the resource so all people would benefit more from the resources, we proposed steelhead enhancement projects, both on and off the reservation, that would supply a continuing need of the resource, one of the real problems, Senator, is that if you allow the resource to be exploited at the present rate of entry, by 10 years from now we may have double the steelhead fishermen with only half—or with the resource the same size it is now, with the Indian fisheries people in the business raising fish, we can create a lot more fish. We have proof of that, in our steelhead enhancement projects. We are raising more fish. We have proven we are capable of cooperating with the non-Indian user groups, particularly on the Hoh and the

Quinault, the non-Indian sport fishing clientele assists in capturing brood stock for our hatcheries, and we have been able to double runs in the Quinault system on the lower river and we have proposed early on that we do that for the portions of the streams that are off the reservations.

But, quite frankly, we have not had the willingness to cooperate in the areas of the streams that are off our particular reservations by the governmental entity. The sportsmen are willing, they are demonstrating that on the Hoh, and on the lower Quinault, but the governmental entities is not very willing to take this on, and one of the reasons why that exists now is that there is always the hope that total decommercialization will occur. There isn't going to be any real progress in that arena until that issue is decided. The sportsmen are going to hang onto that carrot as long as total decommercialization is in the wind, and that's the problem. It's not our problem. We are willing to cooperate.

Senator MAGNUSON. Without going into the details of it, let me ask are the tribes willing to work out an agreement with the State on steelhead within the context of the enhancement plan?

Mr. FRANK. Senator, yes.

Senator MAGNUSON. I am not going into details what it might be, I am just saying are you willing? To work out an agreement with the State on steelhead within the contents of the enhancement plan in the bill?

Mr. FRANK. Yes, I think the Indian people, when the bill first came out, I think the thing that wasn't addressed to this bill, from when it first started, was steelhead and we believe that steelhead has got to be addressed in that bill, and we believe that we will work an enhancement program on the steelhead with the people that are involved on the other side of this, almost every one of the Indian tribes in the Northwest here, has got some kind of a steelhead plan out on the board right now.

There might not be a lot of them in the air, and some of them are being written right now, and they will be negotiated with the State of Washington, and the sports fishermen will be involved. We are very aware of steelhead and what they mean to the sports people, and we will work night and day to get this problem solved.

Senator MAGNUSON. The problem we have to decide is whether or not steelhead should be considered as a separate fishery, whether or not it is a part of the general enhancement program, and deal with it in this bill. There are some feelings that we should proceed independently on the steelhead problem willing, as you point out, Mr. Frank, are willing to work out an agreement. I think that states it very clearly.

All right, if there is nothing further, we thank you very much. Did you want to add something?

Mr. HECKMAN. I want a chance to reiterate with relation to steelhead and this bill, the purpose of the bill does include steelhead and the tribes assume that whenever you are talking about—

Senator MAGNUSON. It assumes it by implication for in the bill, it mentions steelhead.

Mr. HECKMAN. It mentions it twice in the first page, and the tribes do assume that when you are talking about long-range comprehensive plans, between the State and the tribes, that that will include steelhead.

Senator MAGNUSON. By implication.

Mr. HECKMAN. Well, I think the tribes consider it is pretty direct, and they would like to keep it that way.

Senator MAGNUSON. All right, thank you very much, we appreciate your coming, and I appreciate it very much. If you have any other suggestions on the bill, modifications or amendments, please send them to us so that we can take a look at them, because I said in the beginning, the purpose of the bill is a working paper, and we're looking for amendments and modifications and things that you think. We may not take them all, but we will take a look at them.

OK, thank you very much. I want to compliment you on getting together for a change.

[Laughter.]

All right, we have Mr. Gary Kimble, executive director of the Columbia River Intertribal Fish Commission.

STATEMENT OF GARY KIMBLE, EXECUTIVE DIRECTOR, COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; ACCOMPANIED BY KATHERINE BRIGHAM; TIM WEAVER; AND DOUGLAS DOMPIER

Mr. KIMBLE. I am Gary Kimble, executive director of the Columbia River Intertribal Fish Commission. Mr. George could not be here today, he was going to present our statement on behalf of the commission but we have Katherine Brigham, who is a commission member who will be making the statement, and I might say—on my far right is Tim Weaver, who is the attorney associated with the commission and represents the Yakima Tribal Council and to my left is Mr. Douglas Dompier, who is chief biologist for the commission, and these two gentlemen, as well as myself, are available for any comments you might want to make.

Senator MAGNUSON. We have no comments to make, we want to listen to you people. That is, what is wrong with the bill, or what is good about it. As it is a working paper, we have no comments to make. Let's move along.

Ms. BRIGHAM. On behalf of the Commission we would like to thank you for holding this hearing.

Senator MAGNUSON. Before you start, I think we all know the problem, therefore we want to hear what you have to say about the proposed legislation.

OK?

Ms. BRIGHAM. My name is Katherine Brigham, I am a Umatilla Indian fisherman, as well as a member of the Umatilla Fish and Wildlife Committee, and the Columbia River Intertribal Fish Commission. For many thousands of years our people have fished the Columbia River and its tributaries for our religion, our subsistence, and our commerce with other tribes, later with the white settlers.

In 1855 our people agreed to give up some of our land, and in return were told by Isaac Stevens, the Representative of the United States, and later the first Governor of the State of Washington, that we were guaranteed our right to fish at our usual and customary fishing grounds and stations.

We have continued to fish throughout the Columbia basin and its tributaries, including Celilo Falls, where our people fished from scaf-

folds with dip nets until that area was inundated by The Dalles Dam in 1957. For the last 20 years we have seen our fish runs shrink as the spawning beds were destroyed by timber harvests, grazing, and impoundments and as streamflows decreased because of our irrigation and dam storage.

We have also seen the effects of overharvest on our fish in the ocean by the vast Pacific troll fleets, and, though we originally supported Federal management of the Pacific Fishery, we now know that the Pacific Fishery Management Council has been either unwilling or unable to carry out proper ocean harvest management and return our fish to us.

We have no rational management on ocean harvest by that council and it is unlikely that we will have rational management until there is rehabilitation and enhancement of the fish habitats so there can be more fish and until there is a way to limit the fishing effort and harvest by commercial trollers without creating undue economic hardship. So we believe that S. 2163 offers an opportunity for our people to continue their traditional ways and have our treaties honored by the States and the Federal Government.

For many years Indian people in the Pacific Northwest have known that we must protect our streams as a place for the fish to run and to spawn in order to protect our way of life. We have the fisheries expertise and the incentive to implement responsible enhancement and rehabilitation projects as recognized in S. 2163. Now we need the funding support that the bill would authorize if amended to include the Columbia River system.

This bill is a timely approach to the problem of fish declines. Harvest management by the States and Federal Government has not worked and if action is not taken soon, the once great runs of salmon will be recent history along with the ways of our people. Already, the fall Chinook of the Snake River are being studied for endangered species status. Last year, there was no in-river fishery of either spring or summer Chinook or sockeye salmon, and for the first time in history, the Yakima's were required to close down our subsistence fishery for spring Chinook in the Yakima River because of poor runs.

While both my tribe and the Columbia River Intertribal Fish Commission support the important concepts in S. 2163, we believe that some changes can be made which will improve this legislation's impact on the problems of habitat destruction and overharvest.

We believe that the legislation should be amended to include the Columbia River system. The Yakima Indian Nation was a party to both the *Boldt* and *Belloni* cases. While there are differences between the fisheries in Puget Sound and the Columbia, the problems of habitat and overharvest are the same. In addition, the tribes in each fishing area are taking responsibility for management and for enhancement and rehabilitation. There are now two intertribal commissions formed for the purpose of coordinating our efforts and developing rational fishery policies. While we recognize there may be minority rights asserted by a small number of other tribes on the Columbia system, we believe that this is an issue that can be resolved as enhancement under this legislation proceeds.

We would also suggest that the definition of treaty in the legislation be clarified to refer only to those agreements signed by the United States and the tribes under their treaty-making powers.

Regarding funding, we believe that the moneys proposed in the legislation are not adequate to enhance the resource. For the Yakima and Klickitat River systems alone, the Yakima Indian Nation has prepared two important enhancement projects which would practically exhaust the amounts proposed to be appropriated under this legislation. In addition, we suggest that operation and maintenance funds for tribal projects not be limited to a 7-year period but that they be available for the life of the project.

Also, we must object to sections of this legislation which would indebt our tribes and tribal enterprises to the Federal Government even if these moneys will be used to improve our ability to fish. We suggest instead that tribal fishery development funds be furnished as grants, permitting the creation of tribal revolving funds where appropriate.

In summary, we believe that S. 2163 is an important complement to the comanagement and planning activities already underway for the Columbia River System Fishery. By narrowly focusing on enhancement and economic assistance, this legislation can assist all of the fishermen on the Columbia River in resolving our differences and carrying on the important work of redeveloping the salmon resources of the Pacific Northwest. Most important to tribal fishermen, this legislation can help to insure that we will be able to continue our fishing and our way of life without the conflicts that have plagued our people for the last 100 years.

Thank you.

Senator MAGNUSON. Thank you. We appreciate your suggestions and your comments. I think the main thrust of your testimony is that you want the bill to include the Columbia River system?

Ms. BRIGHAM. That's right.

Senator MAGNUSON. You made some suggestions, for instance, your suggestion to knock off the 7 years for the life of the project. What would be the life of the project?

Ms. BRIGHAM. Well, I guess forever. As long as necessary.

Senator MAGNUSON. We have to legislate time periods, to take a look at it to see how it is going and see if we want to continue it. I don't know whether 7 years is a good example but we can take a look at that. You say that you are ready to take the responsibility for your part of the management, is that correct?

Ms. BRIGHAM. Yes, sir.

Senator MAGNUSON. And for enhancement and rehabilitation, I take it that the Columbia River system is in bad shape?

Ms. BRIGHAM. Yes; it is.

Senator MAGNUSON. We'll take a look at it, and see what we can do. Now you are complaining about the management conservation?

Ms. BRIGHAM. Yes; we do.

Senator MAGNUSON. Why don't you go back and talk to the council, you don't want us to abolish it do you?

Mr. WEAVER. I don't believe we wish you to abolish it, but it is truly frustrating, quite frankly, over the things that have occurred par-

ticularly in the Columbia River system, under the present scheme of management.

Senator MAGNUSON. That's administration. I try to suggest that we are legislators, not administrators. If there is something wrong with the administration we will have to take a look at that.

Mr. WEAVER. I think the point we are trying to make, Mr. Chairman, by bringing before you the problems of management in the ocean, is to stress the importance of bills like S. 2163. We feel that if the resource is enhanced sufficiently, hopefully we won't have to have these fights to the death, for each and every fish.

Senator MAGNUSON. The management council would have to make these hard decisions.

Mr. WEAVER. They would still have to make some hard decisions, but I don't think they would be difficult.

Representative LOWRY. Could you clarify the comment on the section of the legislation which would indebt tribes to the Federal Government, as opposed to grants and perhaps the revolving funds?

Mr. KIMBLE. Well, there is some idea that the tribes did not want to get into comprehensive schemes whereby they would have their tribal funds indebted, this is very important for other projects, this would be a grant system so that they could cooperate. Oftentimes a tribe now has their resources in the future to execute loans at the present time, and therefore they would fall under the system.

Representative LOWRY. Do you have any estimates, or have you heard from other places, any estimates as to the increased enhancement costs of the Columbia River system, in adding the Columbia River system into the administration bill, as it has been introduced?

Mr. KIMBLE. We have heard figures of course we are thinking about what this might entail from our viewpoint, I might refer to another staff member, but the figures vary considerably. I would assume that it would depend upon how comprehensive would be the enhancement, and therefore how much money you would allocate.

We have specific programs, that some of the tribes are proposing, and as was pointed out in the text, in the testimony, that those two projects for the Yakimas alone would absorb the money available, as we understand it, under the legislation.

Mr. WEAVER. On that point I just want to make it clear that in the event that the bill is amended, we would be asking for additional funds, we want to assure that the Northwest tribes in the State, that we are certainly not trying to take a cut of the pie as it presently stands, I don't think it would be fair for us to represent to you that we won't be asking for additional funds, for the Columbia River, if it is included.

Representative LOWRY. We realize we are talking about quite a bit of money, but the argument of the importance of the Columbia River system in the fishery system has a lot of bearing. I know that. Representative AuCoin holds that. We've heard his case.

Thank you.

Senator MAGNUSON. You suggest including the Columbia River. Do you propose to include the Idaho?

Mr. WEAVER. We are speaking of Shoshone Bannocks, and that situation, we are proposing enhancement for the Columbia River system, and I think as a practical matter, you have to include Idaho, and the

Shoshone Bannock at the present time certainly have some ceremonial and some systems rights, in the headwaters of the Snake River system, and those rights at the present time have been asserted to be for fairly minimal numbers of fish, it is not a commercial fishery, I certainly don't want to speak for them, but I think they probably would have some input into this legislation, if it were amended to include the Columbia drainage.

Senator MAGNUSON. All right. I have no further questions. Thank you for your suggestions.

And now Mr. Terry Holubetz, are you here?

All right. He is the executive secretary of the Columbia River Fisheries Council.

STATEMENT OF TERRY HOLUBETZ, EXECUTIVE SECRETARY, COLUMBIA RIVER FISH COUNCIL

Mr. HOLUBETZ. Thank you, Senator, I am Terry Holubetz, the executive secretary for the Columbia River Fish Council. Members of the Columbia River Fish Council include the directors of the State Fishing Game Agencies, Washington, Oregon and Idaho; regional directors of the U.S. Fish and Wildlife Services, and National Marine Fisheries Service, and the chairman of the Columbia River Intertribal Fish Commission, which is composed of the four Indian tribes that have special fishery rights on the Columbia River. The Nez Perce, Umatilla, Warm Springs, nad Yakima.

The purpose of the council is to apply for a coordinated approach to the research and management of the Columbia River anadromous fishery resources.

Because this bill is an administration bill the President does not include the Columbia River. The statement does not reflect the official position of the two Federal fishing agencies that have fishery responsibilities on the Columbia River. The Columbia River Fisheries Council strongly recommends that enhancement measures be realized in the Columbia River basin at the same time that enhancement measures are realized in the *Boldt* case area. If significant enhancement were realized in the *Boldt* case area, without similar enhancement of the fishery resources in the Columbia River basin, the severe fisheries management problems on the Columbia River would become even more critical.

The anadromous fish resources of the Columbia River basin can be restored to a highly productive level if the Columbia River Fisheries Council is engaged in the development of a joint operational plan to insure the restoration of optimum production and utilization of anadromous fisheries resources in the Columbia River.

The partially completed joint plan is intended to provide a unified approach to solving environmental problems such as extensive turbine mortality at hydroelectric dams and insufficient flows for downstream migrant salmon and steelhead. Also, common direction will be established for enhancement of salmon and steelhead production in the Columbia River basin. Desirable changes in harvest management will be identified and coordinated plans for implementation of changes in harvest management in the Columbia River basin will be developed.

The enhancement measures that could be made possible in the Columbia River by this bill would be an integral and essential part of the overall comprehensive plan being developed by the Columbia River Fisheries Council to restore the anadromous fisheries resources of the basin. The Columbia River Fisheries Council recommends that the bill be amended to include in the conservation area all of the anadromous fisheries habitat of the Columbia River basin lying within the States of Idaho, Oregon, and Washington and the fishery conservation zone adjacent to the coast of Oregon.

The Columbia River Fisheries Council also favors amending the bill to include capability of change gear types in the Columbia River commercial fisheries consistent with the comprehensive plan. There is a need to transfer part of the mixed stock commercial fishing effort to known stock commercial fishing effort in the Columbia River; thereby providing capability to alleviate underharvest and overharvest problems associated with commercial fisheries in the river.

The amendment to this bill to include enhancement of Columbia River salmon and steelhead stocks and a positive mandate in the regional energy bill, S. 885, to provide energy and water management that meets the streamflow needs of migrating anadromous fish will restore the productivity of the salmon and steelhead fisheries of the Columbia.

The Columbia River Fisheries Council is preparing recommendations for amended language for Senate bill 2163 to include enhancement of Columbia River fisheries resources and will submit those amendments to this committee for your consideration as soon as they are completed.

Senator MAGNUSON. We thank you, do you have any questions?

Representative LOWRY. Only the same thing, Mr. Chairman, that I asked the previous panel, do you have an estimate of what the enhancement costs would be, including the Columbia? Actually, I should have asked you, rather than the previous group.

Mr. HOLUBETZ. Since one of the members is a Columbia River Intertribal Fishery Commission, my answer is going to be quite similar. We have been working with the various parties and States and the intertribal council and we have come up with a varying set of figures. I am reluctant to state what the estimate is, I think we will try to fine tune that estimate and come up with a coordinated approach, in the amendments that we do submit.

Representative LOWRY. Thank you.

Senator MAGNUSON. What are the range of figures, what is the range of figures?

Mr. HOLUBETZ. In talking to the States, and the intertribe, it is ranged anywhere from \$50 million to \$200 million, I don't know where it is going to end up.

Senator MAGNUSON. \$200?

Mr. HOLUBETZ. That's what I said. And now I hope you realize that there is no support for either extreme or any figure in between at this point, we are attempting to put together a coordinated approach so that we can define an estimate for you.

Senator MAGNUSON. Well, we will look forward to your recommendations.

Thank you very much.

Mr. Phinney, are you here?

Mr. PHINNEY. Yes.

Senator MAGNUSON. Mr. Phinney represents the salmon and steelhead research council chairman for the Washington State Department of Fisheries. Glad you are here.

Mr. PHINNEY. Thank you, Mr. Chairman.

STATEMENT OF DUANE PHINNEY, CHAIRMAN, WASHINGTON SALMON AND STEELHEAD RESEARCH COUNCIL

Mr. PHINNEY. My name is Duane Phinney, chief, Washington Department of Fisheries Research and Development Division, and appearing here today as chairman of the Washington Salmon and Steelhead Research Council. This council was officially formed on the signing of the charter by representatives of the several fishery management research organizations in the State of Washington; namely, the Northwest Indian Fisheries Commission, National Marine Fisheries Service, and U.S. Fish and Wildlife Service, Columbia River Intertribal Fish Commission, University of Washington, Washington Department of Game, and Washington Department of Fisheries, during a ceremony in the Office of the Governor, November 13, 1979.

Senator MAGNUSON. I just want to comment that this shows the seriousness of the management problems, doesn't it? All of these people are involved in it.

Mr. PHINNEY. It was in recognition of the seriousness of it that these agencies were able to come together.

Senator MAGNUSON. You could add to that list, a list as long as your arm, couldn't you? Especially people involved in management?

Mr. PHINNEY. Yes; agencies involved in fisheries management number quite a few.

Senator MAGNUSON. OK.

Mr. PHINNEY. The council was formed to document and assess salmon and steelhead research and development; to provide communication and coordination among the many agencies and investigators; to establish priorities and assess relative merits of past, present, and proposed research and development; and to make recommendations to government bodies. The council's overall goal is to improve efficiency of the investigative process.

I will comment today on S. 2163 only as it relates to enhancement and research and not upon the other sections of the bill.

Although one of the purposes of the bill as stated in section 101(a) is to promote research, we are concerned that research needs have not received an appropriate amount of funding in the bill. We note, for example, that the regional team of the Federal Task Force on Washington State Fisheries in its settlement plan for Washington State Salmon and Steelhead Fisheries recommended an expenditure of \$20 million over an 8-year period to meet the research needs associated with carrying out successful enhancement. We find that S. 2163 would appropriate \$3 million for research and for providing required advice on the mechanisms for coordinated management and preparing plans and programs described in the act. This amount is not an appropriate percentage of the value of the enhancement product. Appropriate

values can be provided, we have not done so today. We would note that 10 percent is a commonly used figure. Section 204 refers to a system to monitor and evaluate enhancement projects funded under the act, but no funding is provided. We also suggest that a mechanism be provided to assure long-term continuity of funding for research.

Research requirements associated with enhancement projects can be divided into four general categories, not necessarily listed in order of their importance.

First of all: There is a need for evaluation of a proposed project and the specific site. Project evaluation includes such items as acquisition and evaluation of information on the potential interaction of the enhanced fish with other fish stocks, enhanced or natural. Site selection requires examination of information on, for example, water quantity and quality.

Second: Considerable progress has been made in fish cultural methods since the early 1960's. More recently, a coastwide program for identifying fish stocks has provided invaluable data on survival and contribution of salmon and steelhead to the various fisheries up and down the coast. This program has provided methods for further refinement of the various aspects of fish culture and continuing studies along this line are required to maximize contribution of existing and new enhancement facilities.

Third: There is a need to conduct comprehensive evaluation of any new enhancement projects to assure goals are achieved.

Fourth: Augmenting salmon and steelhead runs in some areas can only be accomplished by improvement of the natural habitat. There is a need for research to determine the feasibility of the various methods for habitat improvement.

Finally: The Washington Salmon-Steelhead Research Council will accept the responsibility to review and recommend priorities for research. The various potential recipients of such research money, recognizing the need for this activity, have formed this council and agreed to its appropriateness. In recent weeks, we conducted such a review. Approximately \$1.3 million Saltonstall-Kennedy funds were authorized to National Marine Fisheries Service to be spent in the Pacific Northwest for salmon and steelhead research. The council was utilized as a clearinghouse for recommending priorities for research projects proposed for this funding.

Thank you.

Senator MAGNUSON. We had a raid on the Saltonstall-Kennedy funds, or attempted raid by OMB; we stopped that. There will be a little more coming in to the fund due to the 200-mile limit. They will spend a little more money, so we realize the importance of this, and your suggestion is that an 8-year period of recommendation of \$20 million, is that correct?

Mr. PHINNEY. I am sorry; I didn't quite hear you.

Senator MAGNUSON. Your suggestion is that \$3 million is not enough, you recommended \$20 million. Is that correct?

Mr. PHINNEY. We weren't necessarily recommending \$20 million; we were noting that the \$20 million was a figure that was achieved after considerable deliberation.

Senator MAGNUSON. By the task force?

Mr. PHINNEY. By the task force. We do believe that \$3 million is too little.

Senator MAGNUSON. \$3 million is pretty skimpy?

Mr. PHINNEY. Yes, sir.

Senator MAGNUSON. For recommendation?

Mr. PHINNEY. Yes.

Senator MAGNUSON. Any questions?

Representative LOWRY. No.

Senator MAGNUSON. Thank you very much.

I will repeat again that if witnesses have any further recommendations they don't think of at this time, be sure to send them to us, and we will take a look at them. We may have to review this legislation and think of some other modifications and amendments.

All right, we have run out of our morning witnesses for a change. We will recess until a quarter to 2. We have a long list of witnesses this afternoon, which we hopefully will get through.

Thank you all very much.

AFTERNOON SESSION

Senator MAGNUSON. We will come to order. I may take the witnesses a little bit out of order. Some are not here yet. Phil Sutherland, would you like to testify now?

Mr. Sutherland is speaking for the Puget Sound Gillnetters.

STATEMENT OF PHILIP G. SUTHERLAND, PRESIDENT AND ACTING MANAGER, PUGET SOUND GILLNETTERS ASSOCIATION

Mr. SUTHERLAND. Thank you Senator Magnuson and Mr. Lowry. My name is Philip G. Sutherland. For the record, I am President and Acting Manager of the Puget Sound Gillnetters Association. We thank you again, for this presentation opportunity. I suppose in reference to the out of context use to which my testimony before this committee of August 17 was subjected, I should ask for whatever congressional protection you can afford me. But without answer to that request I take up where I concluded that presentation. I quote:

We reiterate our distaste for this segregated fishing scheme, brought about by our court system's freedom to interpret, and pledge our continued resistance to this concept, in every "legal" public opinion and political forum that exists, to the end that one day the rationale of "in common with" as equal citizens means just that.

We believe in the concept that they are served best who represent themselves in Government-level matters, and openly acknowledge that militant defiance has its point-making limitations, but all our involvements, all our input must be true tempered by adherence to equal citizen treatment principles; and thereby hangs our dilemma—together they account for the frustrating reasons I am here on PSGA's behalf today.

Footnote 20, *United States v. Washington*, "The Washington Supreme Court held that the treaties would violate equal protection principles if they provided fishing rights to Indians that were not also available to non-Indians." The simplest answer to this argument is

that this Court has already held that these treaties confer enforceable special benefits on signatory Indian tribes, for example. Tulee, supra; Winans, supra; and has repeatedly held that the peculiar semi-sovereign and constitutionally recognized status of Indians justifies special treatment on their behalves when rationally related to the Government's "unique obligation toward the Indians."

Two key words in that footnote are "rationally related," neither the Federal Government, nor their zealous State agency, cooperative decisionmakers, have shown much rational relation as regards their implementation of Boldt's dictates. Now comes the long-awaited executive proposal, S. 2163 to, as Secretary Andrus put it, in his presentation letter to Congress: "The bill responds to economic dislocation arising from the adjustments in harvest opportunity occasioned by the decision in *United States v. Washington*." We fail to find all that much within the bill that is rationally related to—alleviation of our federally imposed predicament. Acknowledgment of that fact, used to impose Federal jurisdictions over our State's court-supported right to manage, as in our view this bill does, only adds further insult to our 6-year collective considerable irrational injury.

Section 4 of the *United States v. Washington* decision syllabus comments on our State attorney general's spirit of cooperation that motivated his representation to the court. The authors of S. 2163 apparently construe his "white feather" approach as a signal to assume supervision of our State fisheries whether our State demonstrates recalcitrance of Federal court orders or not. Such preemptory action is uncalled for and the establishment of the Secretary of the Interior as general overseer (page 5, line 1, item (13) and under title I—Coordination—sec. 101 line 22) "Sec. 101(a) the Secretary is authorized to establish a program established in this act and to promote research and coordinated management of the salmon and steelhead resources within the conservation area consistent with the purpose of this act"—is a prime example of unacceptable proposals. Interior's black record on behalf of Indian-controlled resources through BIA administrations sends chills of fear through us lest more boondoggles occur to our State's delicately balanced yet high potential salmon resources. Salmon are acknowledged by the U.S. Supreme Court as an item of commerce and that Department should coordinate this act. We herewith offer our condolences to this Commerce Committee for embarrassment suffered through presentation of this bill's precept.

In the arena of Indian input toward resource programs, it is not difficult for us to acknowledge the sincerity of concern evidenced by conservation area tribes and their leaders; it is also an encouraging note to witness their effort toward singleness or presentation through the Northwest Indian Fisheries Commission, but continued references in the bill to the state of the Northwest Indian Commission as implied comanagers leaves a built-in conflict of jurisdiction that forecast inevitable program delays and continuous strife. We have no problem with citizen group participation to assist State agency decisionmaking, but polarizing citizen groups to conflicting stature of input importance guarantees trouble. On the title page line 4 reconstruct to read "In order to assist both classes of treaty citizen

harvesters—" and on lines 4 and 5, page 2, we recommend it read "program involving the United States, the State of Washington statute authorized agency, and citizen treaty participants—".

On page 2, section 2, lines 23 and 24 strike out "and steelhead fishing".

On page 3, item (2), line 2 change word "by" to "from".

Item (7) definition is not used so strike lines 20 through 23.

Item 5, page 3 should stand as written, this bill is directed toward specific acknowledged problems generated by *United States v. Washington*—period.

On page 4, item (10), line 8 clarify by adding clause to read: "The term 'recreational fishing' means fishing for personal use and enjoyment (using conventional hand held angling gear) and not for sale or barter".

On page 5, item (18) must be more specific as to defining a participating tribe; a Federal court opened this strange segregation door and that door should close after it. Reconstruct item (18) to read "The term 'Treaty Tribe' means specific Indian Tribes recognized with usual and accustomed fishing grounds in the conservation area."

Strike "Similar entity" and "or the Secretary of the Interior".

There must be an open door to all citizens input and participation.

On page 7, line 19 insert "An equal opportunity—" for example, published last December in the Northwest Indian Fisheries Commis-
vantage on coho harvest, and very nearly 3-to-1 advantage on chinook participants enjoyed a 3-to-1 advantage on chum harvest, $2\frac{1}{3}$ -to-1 advantage on coho harvest, and very nearly 3 to 1 advantage on chinook harvest, based on Puget Sound stocks. Since Puget Sound is our usual and accustomed grounds and by regulations, we are restricted to a very limited participation in this specific area, somehow this word insertion, an "equal" opportunity, seems appropriate.

A Congress mandated hearing held January 16 here in Seattle, under HEW auspices, addressed the problem of Indian identity criteria. We have problem enough coping with understanding our Nation's highest court dividing a State's resource between parties one of whom is not judicially or legislatively clearly identified, without adding more confusion by allowing Interior to name more.

Also on page 7, item (2) under "standards" add after stocks line 25, "consistent with the agreed and established comprehensive plan".

On the subject of funding under this act we recommend holding the U.S. Government executive branch to the commitment their spokesman advocated last fall—a \$90 million program it was then and as insufficient as that may well prove to be there is no place for considering item (b) section 102 on page 6. Government insistence that State matching funds is an equivocation—strike item (b) lines 13 through 15, and any other reference to State matching funds.

On page 12, line 22, item (2) reference is made to O. & M. funding. Change word "seven" to "eight" on line 24.

Participating in comments on commercial fishing fleet adjustment under title III is an especially nebulous task; the Court decision predicating our presence here, judicated out of existence livelihoods long established, and indirectly dictates incentives and opportunities based on unpredictable future resource quantities. We choke on the word

"voluntary" as it relates to our input here but for lack of a better term that is our basic condition for submitting to any proposed buy out program and confess to an embarrassed adoption of even that premise. Our 6-year-long enforced economic deprivation due to denial of former opportunities dictates our participation on behalf especially for those dependent on the Puget Sound fishery. Ironically, the Doubleday Dictionary of 1975 defines the word "participate"—"to take part or have a share in common with others."

With that comment we positively insist that item (4), line 11, page 15 be changed in the following manner:

(4) The State program provides that "no" any person "except for a member of a Treaty Tribe" may purchase any vessel sold to the State pursuant to the program, except as to Item Three and use such vessel for commercial or charter salmon fishing in the conservation area."

Exclusive Indian upgrade opportunity under the peculiar circumstances generating this program, for fleet reduction, coupled with the attachment fishermen hold for their vessels might well be a catalyst creating actions none of us want to see. We deem item (4) as written, blatant discrimination.

Again on page 15, line 23, Item (b) recognize productiveness—we only recognize productiveness on the basis of establishment in the fishery, we will not endorse any dictation of incentives.

Senator, if I may I would like to expand on that section and make it more specific.

Time has perhaps sharpened the focus on the issues, however there's been no change in our position since this decision first hit us.

The insidious, prime, evil of this decision as it relates specifically to us, even after Supreme Court review—and perhaps especially after—is that neither the honorable judge from Tacoma, nor the U.S. Supreme Court chose to finish their decisions.

S. 2163 proposed that we decide who among ourselves is more or less privileged—strikes even deeper into the heart of the American system in law and life—world pronounced free choice, and all citizens equal.

We will accommodate, by consideration, incentives offered by Government to remove us from our free choice of endeavor, but P.S.G.A. members stand united in our determination not to suffer the embarrassment of passing performance judgments on our fellow citizens.

It is our recommendation that Hon. George H. Boldt be called out of retirement to finish his job on us so that history may have record.

Black is beautiful but we will not don that robe.

Consistent with this position we ask that Item (7) on page 16 be stricken and that it be replaced with an item consistent with Secretary Andrus' introductory letter to Congress. It follows logically that if our Government acknowledges, "economic dislocations arising from the adjustments in harvest opportunity occasioned by the decision in *U.S. v. Washington*" it surely should endorse relocation assistance for those whose ingenuity points a way. Page 16 suggested item (7) the State program create criteria to provide economic assistance toward fishing effort relocation.

Page 15, item (6) and (c) reimburse those fishermen who left the fishery under the original buy back program with any bonuses or schedules established. They sold their citizen treaty right for the price

of a boat. Federal forced failure was not fair then and it is not fair now.

I'd like to present a few concluding remarks in order to clarify and emphasize our position. Our apprehension of jumping from litigation pawns in that long drawn out struggle in which we had literally no position, to pawns on a board of a bureaucratic chess in which we have no movement is not our idea of accomplishment. Secretary Andrus of Interior, BIA Godfather, has no place as coordinator of this act. Commerce we're addressing, Commerce it should be. This State's responsibility and right to manage its citizens' resources with all citizen input to legislate authority must be held inviolate.

I alluded earlier to commendation of Indian presentation as a single voice, but I am apprehensive that singular positioning for numerous tribes divided into five treaty areas with differing regards, re enhancement, culture, and harvesting opportunities, may very well prove cumbersome to a degree that we, the other citizen treaty participants will be further impacted. For example, it is one thing to honor escapement to provide South Sound reservation dwellers with their court-ordered apportionment. But how do single-privileged citizen fishermen ever numerically square out competing and fishing in common with North Sound, open water, dual-privileged Indian citizen fishermen. This complexity of interests and opportunity must be addressed.

Our State and Federal philosophic policies to allegedly accommodate the needs of both Indians and non-Indians, while leaving play for tribal self-government may strike some as logic—to us it is tragic. Alleged, or real Indian needs supplied by coercing non-Indians out of theirs will solve nothing. Two wrongs have never made a right. We live in apprehension.

As to any dollars spent toward so-called fleet adjustments they must be directed at free and open options for as dignified relocation or retirement as is possible under these trying circumstances. And any dol-objectives. Twenty-five million would conceivably start a program, but be tax free lest we end up further losers. It is our observation that money amounts thus far proposed will not accomplish the proposed objectives. Twenty-five million would conceivably start a program, but with boat, license costs and retirement incentives faced realistically, it is wholly inadequate for the stated purpose.

It has been a pleasure to observe the prompt action our Government has been able to take re subsidizing the Chrysler Corp., and buying up wheat so that our farm friends feel no pain from restricted sales to Russia. Can it be that we as individuals, independent fishermen don't get our positions across with significant impact? Tomorrow, February 12, Abraham Lincoln's birthday, marks the black robe decision day—7 years ago Judge George H. Boldt did his thing to convince the Puget Sound fishermen that they were not equal to an Indian. It is truly time for action lest old Abe's rest be disturbed.

Finally, we are not unaware of the extreme difficulty in gaining congressional acceptance of one specific State's programs, but this mess was not of our, or your choice, or making; our Government has at long last acknowledged, to a limited degree at least, its responsibility through this proposed legislation. As totally as we disagree with

the court decision that generated this action we express our appreciation for this committee's consideration accommodating this locale and wish you well in bringing it to a successful conclusion incorporating the changes necessary to make it respectable in the eyes of Washington State citizens.

Senator MAGNUSON. We appreciate your suggestions, as to amendments to the bill, and we will take a look at them. I want it understood again, like I said, this is not our bill. I didn't author this. Although we agreed generally in principle that there should be some Federal legislation supplementing the *Boldt* decision, we don't know what the final bill will be. The Government will have to make some of these modifications suggested by yourself to make it more palatable to everyone. I note you have several amendments that you suggest, the one that I wanted to ask you, if the bill is passed, would you object to the establishment of a Secretary of the Interior as general overseer?

Mr. SUTHERLAND. We definitely do, sir. And our apprehensions are stated.

Senator MAGNUSON. You would rather have NOAA?

Mr. SUTHERLAND. As a coordinator, yes, definitely.

Senator MAGNUSON. The bill, as it stands, divides some of the authority between NOAA and the Secretary of the Interior. The other item that I wanted to deal with was on page 4, line 8, clarify the added clause to the term recommendation fishing means fishing for personal use and enjoyment. You think conventional hand-held angling gear and not for sale or barter.

Mr. SUTHERLAND. That is correct.

Senator MAGNUSON. That would amplify the term "recreational fishing."

Mr. SUTHERLAND. We just wanted to make it more specific. We thought it was kind of open there. I happen to enjoy my fishing, it is very much of a sport to me, but I hardly think that would be consistent with views normally held by State officials.

Senator MAGNUSON. You say the State's responsibility on page 5, down at the bottom, is the right to manage the citizen's resources. Without citizen input to the legislation, authority must be held inviolate. Now it seems to me, Phil, that the thrust of the bill does give the State more authority in management than it had previously. It takes the Federal Government out of the management process, and merely makes us the one to pay the bills. I don't understand what you mean.

Mr. SUTHERLAND. It probably stems from our basic reaction to Interior's involvement in this, on the basis of the past history. Resources in this State.

Senator MAGNUSON. If Interior was taken out of the bill and NOAA was put in the place of Interior, as some what of an overseer, for what the bill attempts to do, would you have any objection to that?

Mr. SUTHERLAND. Not on that specific management program, no, I believe the State could operate in cooperation.

Senator MAGNUSON. What we want to do is have the Federal Government's role as minimal as possible. We know that you just can't hand the money out without a handle on it, you have to have some overseeing. We want to keep it, however, as minimal as possible.

Mr. SUTHERLAND. Our inferences here have respected the work status of the Indian, ward status of the Indian, and as I said, I appreciate their sincerity, and input in this, but they are wards of the Federal Government and I don't think that Federal Government has done all that good of a job for them. I would prefer that we have the absolute handle on this.

Senator MAGNUSON. I don't want to get into that. You know how much money we appropriated for Indian affairs in the United States, per year, last year's figure? How much do you think?

Mr. SUTHERLAND. I imagine a couple of billion dollars.

Senator MAGNUSON. A couple of billion dollars is correct, a couple of billion and \$285 million, and you divide that figure by the number of legitimate Indians in the United States and you get \$2,700 per capita per Indian per year, and I think the Federal Government has done very well by the Indians. Now, I can only speak financially, I don't know emotionally about whether they have done very well or not.

Mr. SUTHERLAND. Thereby hangs our dilemma in this decision.

Senator MAGNUSON. We have a situation that the Indians complain about the Bureau of Indian Affairs, the BIA.

Mr. SUTHERLAND. Maybe we are in common.

Senator MAGNUSON. You could have that situation but we are very generous, I think, moneywise, Two thousand seven hundred dollars per Indian, per capita, per year.

Mr. SUTHERLAND. They would express "Where did it all go?"

Senator MAGNUSON. I made a mistake, it is \$27,000 I misquoted myself, it is \$27,000 per year instead of \$2,700. Anyway it is \$2,285 million. Now on the buy-back program, that is a matter that is going to receive a lot of attention from this committee and Congress, I don't know whether it is workable or not. It hasn't been very workable in this State.

Mr. SUTHERLAND. Not under the bare boat price.

Senator MAGNUSON. You make another suggestion that it ought to be tax sensitive, is that from Federal taxes or State taxes?

Mr. SUTHERLAND. Federal taxes. If I was to get 200 grand or 250 or whatever.

Senator MAGNUSON. That would be the nature of capital gains. What about the State tax?

Mr. SUTHERLAND. Well, we'll take care of that at the State level here.

Senator MAGNUSON. OK, I have no further questions. You presented an interesting number of proposals for the bill, and I am awfully glad that you devoted yourself to that.

Representative LOWRY. Trying to concentrate in on the buy-back, that is something I am finding a hard time understanding, what type of money and how the proposals work, how to word it that would accomplish the objective in the buyback within your association, do you have marginal members who are people who only fish a small amount within the gillnetters or does that apply more to other type of fisheries?

Mr. SUTHERLAND. Congressman, the development of the fishery has evolved through the years, there is nobody that is not a marginal fisherman, in the State of Washington, and you are asking this basic question that I thought I made very clear, at the annual meeting yesterday

by the time we got around to our business meeting, perhaps only 75 people were there, there was not 1 person who was willing to give voice to setting a criteria in consideration of a marginal operation.

Representative LOWRY. Do all of those fishermen count on fishing as a primary living, do they count on it as a secondary, is it 5 percent of their income, is there a difference between those different licenses?

Mr. SUTHERLAND. As I pointed out, it involves very much a marginal part-time operation, and it's their free choice in other endeavors, the variances as to what percentage that fishery operation in Puget Sound is as varied as there are that many individuals, and some fish part time here, and part time in Alaska, some fish part time here, and maybe drive an oil truck, work in a mill, it has evolved to that degree that they have to. There is no way that they could have a full-time dependency on our State fishery opportunity.

Representative LOWRY. Now on buyout or buyback, what you believe the Government should use as a criteria as to what should be paid, what is the fair market value?

What should go into determining that?

Mr. SUTHERLAND. You are asking me to do the very thing that I said we would not do, is to set criteria, it just comes from a different direction. We have said that we will put it in on the basis of establishment, and that will be up to the Government to come up with a proposal that we will be very happy to consider as to how we would accommodate acceptance on a voluntary basis to get out of this fishing, but we will not name the price. We will be happy to discuss programs and incentives.

Representative LOWRY. There is obviously a difference between how much a person uses a license and there are people that use it a little bit, and people that use it a lot, and I think somewhere in this process we are going to have to determine if we are going to make the buyout work.

Mr. SUTHERLAND. I don't argue the point that there are differences, but I will argue to the day they throw no in my face, that it is his free choice as a citizen in this United States, to do so.

Representative LOWRY. Thank you.

Senator MAGNUSON. The Government has to make an offer don't they? Supposing there is a buyback program enacted by the Federal, State, or combination, the Government has to make the offer.

Mr. SUTHERLAND. The Government made the decision, sir. You are right. And we will be very happy to consider incentives.

Senator MAGNUSON. You'll either have to accept it, or reject it.

Mr. SUTHERLAND. It is voluntary.

Senator MAGNUSON. Well, thank you, for coming.

Mr. SUTHERLAND. Thank you. And I appreciate your directing yourself to the bill.

I spent a lot of effort at it, and thank you for the opportunity.

Senator MAGNUSON. Now the next one is Mr. Manary.

STATEMENT OF ED MANARY, MANAGER, WASHINGTON STATE COMMERCIAL PASSENGER VESSEL ASSOCIATION

Mr. MANARY. Members of the committee, and Congressman Lowry, ladies and gentlemen, I would like to first thank you and the other members of the committee for the opportunity to appear here today.

Further, I would like to thank Hon. Dixy Lee Ray, Governor of the State of Washington, and the members of the Washington State Legislature, for their participation in this most important set of hearings. On February 12, 1980, we will mark the sixth anniversary of the controversial decision handed down by Federal District Judge George Boldt, in the case of the *U.S. Government v. Washington*.

In the past 6 years we have seen bloodshed, we have seen father against son, we have seen severe economic chaos, we have seen total confusion and distrust.

Hopefully, in the next 6 months we will see legislation on a Federal level which will serve as the foundation for a rebuilding of not only the salmon fishery but the rebuilding of communities and people's lives as well.

As manager of the Washington State Charter Boat Association, I have come here today to present to you and the committee, the thoughts of our association, as they relate to S. 2163. In order to be constructive and to the point we have specifically identified the areas where we believe amendments are necessary and further we are prepared to give the reasons for our requests. On page 2, line 6, we ask that the words "and promote the economic well-being of" be inserted between the words "and" and "the," as it appears, we believe such an addition will add further clarification.

Senator MAGNUSON. Is this, and I quote "the establishment of a cooperative program involving the United States and Washington treaty Tribes, and other appropriate parties to," and then you would add "and promote the economic well-being of"?

Mr. MANARY. Yes, sir. On page 2, lines 23 and 24, we request that the words "and steelhead" be stricken that the deletion we believe is necessary in order to bring the correction about in the definition of the word "charter boat," and on page 3, definition 2, we request that the wording be changed to read as follows:

"The term charter fishing means fishing aboard charter boats." Once again the purpose is to give more precise meaning for the deposition.

On page 3, we respectfully request that the definition of the word "escapement" be stricken. The term is not used elsewhere in the bill, and we do not believe it should be included.

On page 4, definition 12, we request that a period be placed after the word "steelhead," and the rest of the definition be stricken. The balance of the definition appearing after the word "steelhead" is redundant.

On page 5, line 1, we request that the Secretary of the Interior be deleted and the Secretary of Commerce inserted as the lead agency in this enhancement package. The reason for that is that we, in this part of the country, are in the process of putting together an overall, comprehensive salmon management plan, under the auspices of the Pacific Fishery Management Council, and we believe that it would just be further confusing to spread out any more agencies in this matter, therefore we think that we would be better served if NOAA was the lead agency in the enhancement program.

On page 5, line 16, we would request that the words "similar entity" be stricken, and on line 19 of the same paragraph, we ask the words

"or the Secretary of the Interior" be stricken. Both changes would reduce and eliminate unneeded verbiage.

On page 6, section 102, we request that lines 13 through 15 be stricken. Our association cannot conceive of a reason why the State of Washington should receive only 50 percent of research funding requests when all similar agencies would be allowed 100-percent financing for research funding under the terms of this bill.

On page 7 we request that lines 21 through 25 be stricken, and in conjunction with that request—

Senator MAGNUSON. Now let's go back on page 6, section 102, when you are requesting lines 13 through 15 be stricken, that deals with the matching program.

Mr. MANARY. Yes.

Senator MAGNUSON. You don't think this should be matching by the State?

Mr. MANARY. That is correct. I believe our association believes that the research requests of the State should be fully funded as is any other entity that would be eligible under this bill.

On page 7, we request that lines 21 through 25 be stricken, and in conjunction with that request we ask that lines 1 and 2 on page 8 be stricken. That language is presently written—it is not necessary in the legislation, and as such should be part of a comprehensive salmon enhancement plan, which would be drawn up at a later date.

On page 11, we request the language be changed to read "all enhancement projects under this program be fully funded by the United States Federal Government."

The State of Washington, in good faith alone, has proceeded forward with \$30 million-plus enhancement program, and we firmly believe that said program more than meets the responsibility of the State in the area of enhancement.

On page 12, line 19, we request \$28 million be stricken, and \$56 million be inserted, and in conjunction with that request, on line 19, \$19 million be stricken, and \$38 million be inserted and finally on line 24, 7 years be stricken and 8 years be inserted. And further we believe that the enhancement money should be available over a period of 6 years. We believe that the figures we have suggested are more in tune with the amount of work that needs to be done.

Now, finally, in the area of enhancement we believe also that it might be well to set a time limit for the drawing up of an overall comprehensive salmon enhancement program. We believe 18 months could well serve as being considered adequate.

On page 13, lines 11 through 13, we request that the language be changed to read that the Federal Government will fully fund the buy-back program.

Our association believes very strongly that the responsibility for making the industry whole again lies on the shoulders of the Federal Government. That is not to say that we are looking for a giveaway program. But instead we are looking for a program where the returns from the program are commensurate with the moneys expended.

For years we have been encouraged by the Federal Government to expand our businesses and now we are being told that we must be cut

back, and that there is to be short-term economic relief. We believe that the responsibility for such relief is upon the shoulders of the Federal Government.

On page 14 we request that the language on lines 1 through 4 be stricken. Our association has a tremendous amount of difficulty supporting language which suggests that an equal number of vessels be removed from each of the fisheries. The disparate number of licenses between the various gear groups prohibits such verbiage if indeed there is to be such an equitable program.

For example, there are approximately 185 charter boats licensed throughout the State. As they are approximately 2,500 gillnet licenses throughout the State, if we were to require a balanced reduction then we are going to run out of charter boats, even on the voluntary program, before we run out of gillnets and we have trouble with that type of a balancing language.

Senator MAGNUSON. You think that the language suggest an equal number of boats be removed. Isn't it pro rata?

Mr. MANARY. I just wanted to make sure that that would not be an impossible condition.

Senator MAGNUSON. If it is to be equal number couldn't it be pro rata? You could have 5 for 1, if we took the charter boat licenses against the gillnet licenses. OK.

Mr. MANARY. On page 15, lines 11 through 15 we have spoken to committee staff on this language, and we respectfully request that the language be changed to reflect that such language not apply to the charter boat fleet.

On page 15, we request that language be added which use "passenger-carrying capacity as a criteria to be used in determining license values as it relates to the charter boat fleet."

On page 16, lines 1 through 3, we respectfully request that the language be changed to reflect the views of the executive and legislative branches of the Washington State government. I recognize that they need to have an effective program and we support the need, and the concept of an effective program, however, it would be unfortunate to have Federal legislation passed that either could not or would not or should not be implemented on a State level.

On page 17, line 18, we request that the figure of \$25 million be stricken and \$50 million be inserted. And further on line 19 we request that the word "can" be stricken, and the word "six" be inserted.

In closing my comments, Mr. Chairman, on the buy-back section, I would like to offer the following. Between the ports of Westport and Ilwaco there are approximately 350 charter boats. Our best information indicates that around 240 of these vessels are mortgaged to some extent. At this time, after checking with a relatively small portion of the financial institutions, we have gathered information on 90 loans, and what we have found is a sad story. The average unpaid loan balance on these 90 vessels is somewhere a little over \$40,000. The average value of the vessel, under mortgage, is a little over \$75,000. Of these 90 loans which we have information on, we have found that 41 of the mortgages were fully serviced in 1979.

In other words, both principal and interest payments were made. Twelve of the mortgages received their interest payment and a very

small reduction on their principal. However, 37 out of the 90 mortgages involved received only an interest payment.

The above information indicates that in 1980, 49 out of a total of the 90 mortgages on which we have information must pay their 1979 principal payment, their 1980 interest payment, and at least a significant portion of their 1980 principal payment if they are going to avoid the very real danger of loan foreclosure on their vessel. If one can accept the fact that the loans for which I do not have information reacted in the same manner as the loans for which I do have information, then there is a total of approximately 131 charter boats out of the 350 charter boats fleet which face the possibility of loan default in 1980. If the lending institutions are forced into a position of having to foreclose on mortgages, then there will be more losers than one might think. Not only will the vessel owners lose but the individuals who remain in the industry will lose as the financial institutions will undoubtedly auction those reeaptured vessels for little more than the unpaid balance of the loan. This act, by itself, will have a very severe deflationary effect upon the balance of the industry. Further, compounding our problems is the preliminary information from the Pacific Fishery Management Council, which indicates that the seeming need for ocean fishing restrictions in 1980 are commensurate with those enforced in 1979.

Also, on another subject, we would like to take a moment to offer a few comments on a topic that is not even mentioned in S. 2163. And that is the subject of salmon management. At the present we have too many people managing salmon. We recognize that each and every one of these agencies is going to try and protect their piece of turf. However, we also believe that at the very minimum, there must be something which effectively binds all of the agencies together. We are not suggesting a new agency, nor are we suggesting a new commission to be constructed; however we do believe that this legislation should spell out some principles that must be followed.

For example, one principle that might be considered is the concept that the basic management decisions should come from within the production area. Such a principle would maintain willingness within the production area to pay the price necessary to maintain the production of the salmon. If that willingness disappears because of the fact that the production area is not a key figure in determining other resources best utilized, then we have indeed a very severe problem. Once again we are not suggesting radical changes instead we are asking for a more centralized approach to the management structure in such coordinations and they would have to include the Pacific and North Pacific fishery councils, as well as the State, in treaty and Indian entities.

Senator MAGNUSON. Now on that subject, would you suggest that we mention in this bill, as an alternative, amending the 200-mile limit bill, which sets up the councils?

Mr. MANARY. I don't think we have to amend the 200-mile bill, I think that could be taken into consideration here with some established principles as part of the overall program that would have to be adhered to without going into amending the FCMA.

Senator MAGNUSON. I wouldn't like to go into too much detail, or too much amending, of the 200-mile limit.

Mr. MANARY. I can appreciate that.

Senator MAGNUSON. If we could just mention this problem by reference, we could probably do that.

Mr. MANARY. Those are the terms we were thinking of.

Last, we would like to bring to your attention the fact that S. 2163 leaves a void in the enhancement picture, when it fails to properly include the Columbia River Drainage. Due to the migratory patterns of many of the salmon stock, curtailments are being placed on ocean fishermen who rely on the Columbia for their very survival. If this bill in some way does not address that problem then it becomes very difficult for us to understand how the salmon industry is going to be made whole once again.

In closing, Mr. Chairman, we would again like to thank you for the opportunity to be here today. We hope that we have clearly presented our views, we hope that we have clearly demonstrated the need for positive legislation which implements the buyback program that is fair, equitable, and quick in coming.

Thank you.

Senator MAGNUSON. We thank you for your suggestions. They are to the point. And we will give them consideration, and you suggest some amendments which are viable and should be considered.

Any questions?

Representative LOWRY. You have consistently given excellent testimony and I appreciate your approach to it. And I think we got the importance of the Columbia River, as to the fisheries. We will continue to consider this as we go through this process.

Thank you.

Mr. MANARY. Thank you for your kind words, Senator.

Senator MAGNUSON. All right. I see the Governor is here. We could be glad to hear from her.

Governor RAY. Thank you, Senator. May Mr. Billy Frank come and make a little presentation to you, please?

Senator MAGNUSON. Presentation?

Governor RAY. Yes, a presentation of a letter that was directly signed by members of the Nisqually Tribe in the State of Washington, a copy of a plan.

Senator MAGNUSON. Thank you.

[Document presented to the Senator.]

Mr. FRANK. The Nisqually Tribe has been very cooperative in this arrangement, and as we move forward, we think we can find a cooperative way of solving this problem.

Senator MAGNUSON. Thank you. I'll discuss this with you a little later.

STATEMENT OF HON. DIXY LEE RAY, GOVERNOR, STATE OF WASHINGTON; ACCOMPANIED BY GORDON SANDISON, DIRECTOR, DEPARTMENT OF FISHERIES; AND RALPH LARSON, DIRECTOR, DEPARTMENT OF GAME

Governor RAY. Thank you very much, Mr. Chairman, and Mr. Lowry, and other members of the delegation, even though they can't be here in person, may I offer you my apology in being later than my scheduled time for appearance.

Senator MAGNUSON. The House Members were in a dilemma, they decided to stay in session, starting Tuesday, and the Senate, for a change is different than the House, and we took a week off, so they planned on being here, and were looking forward to it. So I imagine a lot of them are in an airplane right now.

Governor RAY. Well, we miss them, but we know their interests are good, and we are delighted to be here even with fast transportation we can't be in two places at the same time. And I apologize for the lateness of my arrival.

I would like to express real appreciation for conducting these hearings here in this State, to consider the views of many people to whom the resolution of certain problems affecting our fishery resources are so important.

I am here to testify that the issues being addressed by this committee are of vital concern to all the citizens of our State.

With me today are Mr. Gordon Sandison, director of the Washington Department of Fisheries, and Mr. Ralph Larson, director of the Washington Department of Game.

These two gentlemen, and their staffs, as well as the people in my office, are working closely with you, and with the committee, toward the development of the best possible congressional response to the difficult problems affecting Washington salmon and steelhead resources.

If I may, I would like first of all to offer a brief history of the problems affecting our salmon and steelhead resources, and then I will direct my testimony to the legislation offered by the administration, in response to those problems.

In 1974, the Federal district court issued its opinion in the case of *U.S. v. Washington*. That decision interpreted treaties between the United States and a number of tribes in western Washington to require the allocation of harvestable salmon and steelhead on a basis that was considered unfair by many non-Indian citizens. Needless to say, this decision created considerable controversy and havoc in the industry, and among fisheries managers, and since it meant a significant alteration in who was to harvest salmon and steelhead and how and where they were to be harvested.

Conflicting decisions in State courts confused this situation further. In fact, for most of the past 4 years, the gentlemen sitting on either side of me have been confronted with the unenviable prospect of being in contempt of State court if they implemented the Federal court decision, and in contempt of Federal court if they did not. By 1977, national attention was focused on this dispute, and the administration appointed a regional task force to address the potential solutions to the problems now confronting our resource.

Our congressional legislation had much to do with drawing attention of national leaders to this issue. The task force issued a very detailed report, and made a number of excellent proposals. At the same time most parties were interested in obtaining a resolution of the seemingly endless legal disputes through the U.S. Supreme Court.

As you know, this past summer the Supreme Court issued its long awaited decision, affirming much of the Federal district court's opin-

ion, and making it possible for the State of Washington to manage salmon and steelhead fisheries in a manner consistent with the law of the land.

We are committed to doing exactly that and through increased cooperation with tribal managers and all fishermen, we expect to reduce significantly the hostile, adversary relationships which have so long affected these important resources.

An excellent example of the fruits of this cooperation among former adversary parties can be found in the cooperative enhancement agreement between ourselves and the Nisqually Tribe, which Mr. Billy Frank and I presented you just prior to my testimony. We hope this type of agreement is just one of many that we can reach with the Northwest Indian Fisheries Commission, treaty area councils, and treaty tribes, in the coming months regarding management and enhancement of salmon and steelhead. We also offer this agreement as evidence that the State and tribes can work together in the development of necessary plans, properly expend Federal dollars for enhancement to supplement our existing program.

Obviously, there will always be some disagreement surrounding the salmon and steelhead, but I believe that most of us in the State, well, most of us in the State, recognize that we have a common interest in protecting a fragile resource and maintaining an important industry. While the atmosphere for improved relations has seldom been better, we need constructive assistance by the Congress if we are to continue toward our common goals, and healthy salmon and steelhead resources, and a healthy treaty Indian and non-Indian commercial and recreational fisheries.

You should recognize that we are not asking you, the Congress, to solve all our problems through congressional action, any Federal legislation will be only a part of the solution. We, the State, have undertaken a number of actions to assist the industry, to improve management and increase cooperation with the tribes, and enhance the resource. The tribes in recent years have done the same, and the industry itself has taken on a major responsibility for increasing the available harvest by taxing itself to expand significantly what is already the world's largest hatchery program.

Further investment in the enhancement of salmon and steelhead resources is appropriate if Indian and non-Indian commercial and recreational fishermen are to continue as major contributors to Washington's economy and unique way of life. If there is to be an investment in the resource, the incentive to produce salmon and steelhead now and in the future must be maintained and protected.

There are three problems—alleviating economic dislocation, contributing to the enhancement of these resources, and providing incentives for investment in salmon and steelhead resources and industries consistent with local needs—where your assistance could complement ongoing local efforts.

I offer now some general comments on the administration's legislation. With this testimony, I also submit two documents for your consideration and for inclusion as part of the record. And here are the documents.

Senator MAGNUSON. We'll put those into the record.

Governor RAY. Thank you very much. And the next is a detailed section-by-section analysis of the proposed legislation. The second is our proposed amendments to the bill, offered in substitute bill form, which we think will be essential if the Congress is to respond in a constructive manner to the major problems that have been discussed.

The legislation offers rather limited programs to deal with these major problems. It would authorize Federal funding for enhancement, for a buy-back or gear reduction program, and for investment in the treaty Indian fleets. We consider the legislation a start and an important expression of interest on the part of the administration. We appreciate their effort, however, I do not believe that there is anyone in this room who wants any Federal money, if that money will not do the job for which it is intended, if it is to be misspent, or if the strings attached to that money require unnecessary actions or sacrifices by the citizens of the State, treaty tribes, or the industry itself. As drafted, we think the legislation has exactly that effect.

First, there is the matter of State matching funds for the proposed programs. While——

Senator MAGNUSON. These are some of the strings?

Governor RAY. Yes; these are some of the strings, well, I cannot speak for the Washington State Legislature, I know that key members will speak to this later in the hearing, and I can and will offer these observations.

It is interesting that the Federal bill requires matching funds only by the State, and not from any other participants in the program. Additionally, suggesting a State match completely ignores the fact that the problems to which the Congress is being asked to respond are almost exclusively derived from the implementation of the treaties made by the United States in behalf of all its citizens, not just citizens of our State. Our citizens should not be expected, and I believe that they will not tolerate a solution for which they are to pay more than their fair share.

More importantly, the bill makes only tacit recognition of the State's considerable investment in the management and enhancement of its salmon and steelhead resources both before and since the Federal District Court decision. Mr. Gordon Sandison testified as to the level of this investment by our citizens and our fishermen at hearings in August, and I re-offer that testimony for the record. Simply stated, this massive investment greatly benefits treaty Indian and non-Indian fishermen. We view any program offered by the Congress merely as a supplement to the program already in place in this State.

Second, the proposed legislation does not begin to offer the level of assistance and breadth of programs which the President's regional task force suggested were necessary to address the problems I have discussed.

Enhancement and buyback moneys would be consistent with the task force recommendation if proposed State matching funds were replaced with Federal dollars. Little money is authorized in the legislation for research; however, all of us recognize that research will be critical in improving management and enhancement. We recommend in our proposed amendments to the legislation that a part of the enhancement budget be earmarked for applied research. The newly formed Wash-

ington Salmon-Steelhead Research Council could be utilized to help formulate the priorities consistent with established resource needs. I also note that funding for improved State and tribal enforcement is not authorized. While the improved atmosphere and clarification of management authority since the Supreme Court decision have made enforcement of regulations easier, Federal funds to upgrade this activity would be helpful. We have recommended that up to \$5 million be appropriated for this purpose.

Third, the proposed legislation does not adequately recognize the clear capability and paramount interests of State and tribal managers in development of resource management enhancement plans which will insure equitable distribution of an expanded resource among States and tribal citizens consistent with established treaty rights and local economic needs. We read the bill to grant rather broad powers and discretionary authority to the Secretaries of Commerce and Interior to establish standards for the proposed programs, to review and to have absolute veto authority over proposed enhancement and buyback plans, and to grant the Secretary of the Interior authority over all enhancement planning, including all State, tribal, or Federal projects which are taking place in the conservation area defined by the act.

While we recognize that Congress will not expend moneys merely on faith, we can assure you that the citizens of Washington are not to stand for a further erosion of local control over their resources or their investment in the enhancement of those resources merely to obtain supplemental Federal dollars. It is essential that State and tribal management agencies, who best understand and are accountable for properly responding to local needs, be responsible for the development of standards, policies, and programs, as well as for their implementation. Review by the Federal Government to insure conformity with the intent of Congress, similar to the review of most other grant programs, is all that is necessary, and all that is acceptable.

And, fourth, as I have indicated earlier, there must be adequate assurances that salmon produced by this and ongoing State, tribal, and Federal hatchery programs be returned to the problem area. What is the incentive to produce even one more salmon through this program if it is not assured that the benefits of that production are to be derived by the intended beneficiaries, in this case, fishermen directly affected by the implementation of *U.S. v. Washington*? Frankly, we in the State of Washington are very concerned that our own investment in salmon is not now adequately protected against interception by fishermen outside the conservation area.

Much as the administration has determined that the benefits of its proposed enhancement program should accrue to existing fisheries impacted by *U.S. v. Washington*, the State of Washington, too, has developed its enhancement program to insure that benefits are distributed consistent with sound biological principles and local commercial and recreational interests and needs.

I must emphasize the fact that salmon migrate into waters outside the State's jurisdiction for a portion of their life but that in no way justifies establishment of Federal policies which contravene biological or economic requirements of the salmon producer. The present circumstance is that offshore management has not adequately con-

sidered basic allocation requirements among treaty and nontreaty fishermen, or the interest of the States in determining how best a limited resource produced in their waters should be distributed among competing elements within their industries. A far greater portion of the harvest that may be equitable or economically or biologically sensible can be taken in the ocean, yet the ocean manager is not required to consider obviously paramount local interests in fixing its regulations.

We propose an amendment to the legislation which will require all Federal, State, and tribal managers to manage fisheries in their areas of jurisdiction in accordance with established treaty rights and the biological economic, and investment principles of the area of production.

In other words, all management should be required through existing processes insure that producing areas continue to have adequate incentives to produce salmon. We consider this the most important of the amendments that we have offered.

And fifth, it appears that the administration intends to dictate to the Washington Legislature the number of commercial fishing licenses that the State shall issue to non-Indian fishermen if we are to receive any Federal money for economic relief through a buy-back program. We must remember that the primary purpose of the existing and proposed buy-back programs is not gear reduction as seems to be indicated in the administration's legislation. Rather, it is to provide economic relief to fishermen who can no longer make it in their business enterprise because of reductions in numbers of anadromous fish available for harvest in the State. For that reason, our State legislature enacted legislation for a voluntary buy-back program. I believe that this aspect of the program should be preserved.

Because the legislature has seen fit to impose a moratorium on licenses and has undertaken a number of other actions to reduce the number of outstanding commercial and charter licenses a larger scale, voluntary buy-back program will contribute to significant gear reduction. As you may know, the Department of Fisheries has requested a supplemental grant of \$1 million to continue on an interim basis the existing buy-back program until such time as the Congress is able to act on the legislation before you.

Funds would be utilized to purchase licenses only from the large number of fishermen expressing interest in obtaining market value for their licenses while maintaining their own vessels for personal use. We expect to retire approximately 6 percent of the outstanding commercial and charter licenses through this program. To avoid "windfalls" and to maximize gear reduction through an expanded program, we proposed the legislation be amended to allow for license purchases only, from the marginally productive fishermen.

I can assure you that if our fisheries managers determine that gear reduction beyond that achieved by the proposed program is necessary for sound management, they will be the first to propose implementing legislation. With enhancement promising greater harvests in the future for all fishermen, we must be careful not to create a situation, much like what exists in parts of Alaska, where young and enterprising fishermen cannot buy or earn their way into the industry because of the high market costs of what may well be too limited number of available licenses.

Sixth, you will note in our proposed amendments to the legislation that we have not offered proposals regarding title IV of the administration's bill, the tribal fishery development program. We support the provision of funds to allow treaty tribes to maximize benefits intended by the treaties.

There is one issue that is not addressed in either the administration's legislation or in our proposed substitute bill. That involves the peculiar questions relating to steelhead. This issue is largely beyond our control, and initiating solutions are primarily the prerogative of the Federal Government.

As you know, the Washington Legislature long ago declared steelhead a game fish. That declaration, however, does not affect, for want of jurisdiction, the commercial harvest of steelhead by the tribes on their reservations. Obviously, it would take congressional action, not State action, to alter this practice. Of course there are thousands of sports fishermen in Washington who love to fish for all too few steelhead. On the other hand a number of tribes have economic dependence on the commercial harvest of steelhead, and Federal and State courts have upheld a treaty right to these fish. The proposed legislation provides for enhancement of steelhead and we have suggested that the available harvest be at least doubled. Whether Federal legislation can be framed to deal further with these competing interests and rights in a manner which is fair to all parties, is a most difficult question.

And, Mr. Chairman, I wish to reemphasize our support for the congressional action which will positively supplement the recent efforts of the State, the treaty tribes, and the industry. We need assistance to help satisfy our Nation's treaty obligations, the market demand for quality food fish, and the demand of our citizens and visitors to the State for recreational pleasure to be derived from fishing.

We have offered the committee a detailed critique of the administration's proposal. We view the bill as a start, and appreciate the interest of the Federal Government. As drafted, however, the bill really offers no assistance because the strings attached to the release of the Federal moneys are so ominous that it is doubtful whether we would ever seek to obtain even the first penny available through the proposed programs.

We must recognize that citizens of Washington and its fishing industry have borne special burdens not foreseen by anyone when the Federal treaties were signed. We have undertaken a number of costly programs to improve conditions in our fishery and in fact, more than our fair share, perhaps.

In closing, we believe that the positive benefits being derived from cooperative efforts between formerly adversary parties must continue and be expanded if our salmon and steelhead are to be maintained as an important local resource. Your efforts can contribute to further improvement in this atmosphere. Further enhancement of these resources is possible through Federal assistance.

A voluntary buy-back program will provide immediate relief to fishermen no longer able to maintain their fishing enterprises and reduce gear congestion. Assistance to the tribes to take advantage of economic opportunities intended by the treaties is appropriate. Congress must assure that areas investing in the production of salmon and steelhead receive the benefits of that production consistent with local policies and needs.

Thank you, Mr. Chairman, for this opportunity to offer these views to the committee. I look forward to working with you in the development of constructive Federal legislation to complement the ongoing efforts by the State, by the tribes, and by the industry. We hope that the Federal assistance will occur in timely fashion.

We also would like to submit for the record some additional material, including a detailed analysis of the administration's legislation, proposed amendments and other relevant items to this proposal.

Senator MAGNUSON. Very well, it will be included in the record.¹
Thank you very much.

Having not read the substitute bill, in making comparisons, I can't comment on that, but I am looking forward to reading and seeing where we might make any changes.

As I said at the beginning of this hearing, we were looking for ideas and amendments and modifications, and the bill is really a working paper, suggested by the Interior, and the administration.

As you well stated in your excellent testimony, it is a beginning, and we consider it only a beginning. I am a little bit worried about the constant mention about no strings, that we should give the money with absolutely no strings attached. I'm afraid the Federal Government isn't in that mood right now.

Governor RAY. I think the Federal Government—we do respect that the Federal Government should have the ability to review programs, and to assume that they are consistent with congressional intent.

Senator MAGNUSON. It is our intent—our general intention to keep the Federal Government out of this as much as we can, other than furnishing the wherewithal. That is going to be a difficult job. I am a little selfish about that, and the less the Federal Government is involved, the less work we have to do. And that gets back to revenue sharing, but there is going to be some restrictions by the Federal Government.

For instance, it was suggested here earlier that we keep the Secretary of Interior out of it altogether and turn it over to NOAA. I don't know whether that is a good idea. Its a combined jurisdiction now, so we will take a look at all these suggestions you have made. While this is excellent testimony, I don't understand the section of your testimony regarding steelhead. It should not be subject to State regulation and only Federal. The State can declare steelhead a game fish.

Governor RAY. That is what the State has done, and we recognize that there are tribes whose economic health depends on the commercial harvest of the steelhead that come into their reservation waters.

Senator MAGNUSON. And that State declaration is not in effect for want of jurisdiction. Of course, the treaties override the State law.

Governor RAY. That is correct.

Senator MAGNUSON. That is where the problem is. So the State can only go so far.

Governor RAY. Yes. And we would not propose a modification there in view of the dependence of some of the tribes on that steelhead harvest.

¹ Some of the material was not reproducible and is in the committee's file.

Senator MAGNUSON. I passed a bill several years ago making it unlawful to ship steelhead in interstate commerce, and I thought that was handling the problem. But the courts threw it out. So now we have the problem to deal with. It is a serious problem. Whether or not we treat it as a separate item or make it part of this whole enhancement program is a matter for us to decide, and we will do so.

Now I made another note here on enforcement. I often thought that the thrust of the legislation was for the State to enforce it, if it is passed. Is that correct?

Mr. SANDISON. Yes; that is the main thrust. The only problem is that we have never had an appropriation that was enough to do the job of enforcement that we should, we had all these strings that have to be watched as well as the so-called poacher.

Senator MAGNUSON. What you are saying is that you need some Federal money to help you with enforcement?

Mr. SANDISON. That is correct.

And I think some of that Federal money would go for the National Marine Fisheries because their enforcement capabilities go beyond 3-mile limit.

Senator MAGNUSON. Do you suggest changing the features of the 200-mile limit?

Mr. SANDISON. No, not right now. We are going to give it another shot, as you know the State of Washington has suffered since the council came in but that was only because we were not able to get the votes on the council that would allow the State of Washington to reach its spawning goal and its goals for Puget Sound. We think that now there may be some change in there, that the State of Washington might be able to reach the escapement goal, or very close to it, so I would like to give the council another couple of years.

Senator MAGNUSON. That's an administrative procedure. Nothing to do with my bill, the 200-mile limit bill. This simply sets up an administrative procedure and as you well know that the business of the council, or appointing council members, no matter who you appoint, somebody doesn't like their decisions. But you can't spell that stuff out in legislature and in law.

Governor RAY. May I add one little thing too, it has been my experience, Senator, that once appointed commissioners have a way of believing that they were appointed by Jehovah.

Senator MAGNUSON. I am reluctant to present some amendments to my 200-mile bill because I think that would open up Pandora's box. I would rather see a change in the council or a different attitude. Some of the members do good jobs.

Mr. SANDISON. I think the Pacific Council does a good job, I think it took a while to understand that each State was different and the State of Washington and the huge industry such as Puget Sound, was different than the requirements of the State of California, as I say they are beginning to come around, and frankly I wouldn't want to change the law.

Senator MAGNUSON. There may be, down the line, a necessity for some modification. The 200-mile limit has been in effect for 3 or 4 years, and a bill that complex you have to make some changes. You learn by experience. But the trouble is there are several councils and

you would have—a lot of the people—the Northeast Council everybody thinks they are doing fine. The Alaskan Council, North Pacific, they like what they are doing, but we seem to have trouble all the time with ours, I don't know why. We had hoped that they would settle down. Now here is one other thing, you say that "we should recognize we are not asking you to solve all our problems through congressional action, any Federal legislation would only be part of the solution," end of quote. Now I subscribe to that. But you want all the Federal money.

Governor RAY. We also want recognition of all the State money that is going into the program, too.

Senator MAGNUSON. We have to convince Congress that this is primarily a Federal responsibility. In this day of budget restraints, that is going to be a difficult job. We might be able to make a start, that we don't need to appropriate the full amount because all of these suggestions in the legislation for a 5- or 6-year period, and it is that big an amount.

We might have to just take the amount suggested and then next fiscal year go ahead and add or 2 years from now, because they can't spend it all at once anyway, under the legislation. Now we have had a lot of testimony already about folding in with the Columbia River; what do you think about that?

Governor RAY. I think it would be a very fine thing for the Columbia River system to be included, but that would increase the cost further, it is another administrative area, with problems that in some instances are significantly different than the problems of Puget Sound and it would seem to me that it would perhaps be better in a companion bill than trying to put it in the same legislation. I would think perhaps Mr. Sandison and Mr. Larson would have something significant to say about that.

Senator MAGNUSON. We had a hearing in Washington, D.C., a few months ago, and we limited it to the state of the stocks, and it was all technical and biological testimony. We found Puget Sound wasn't so bad off, in the number of fish and so forth, but the situation was terrible down in the Columbia River. I am sympathetic to doing that, but you will have to go up into Idaho and all the tributaries and it might be a problem. Gordy, do you have anything to say about that?

Mr. SANDISON. Senator, yes. I was just reminded and I know you know well that in the Columbia River, having Washington, Oregon, and Idaho contractual arrangement that has been certified by the Federal court with the four Indian tribes, it is tough management and of course what ahs happened before many times is that we don't start the resource conservation until the fish get in the river. We have to control a little of what is caught out beyond the 3-mile limit, for those fish to get into the Columbia River to fulfill that requirement.

Senator MAGNUSON. That's the same problem—we have the fish coming into Puget Sound. One fact that hasn't been mentioned here, we are having trouble with Canada. How does that come in?

Mr. SANDISON. Next month there is the talks between Canada and the United States beginning again and there have been some preliminary meetings in the past, with the winter season.

Senator MAGNUSON. Maybe the election up there will change their mind.

Mr. SANDISON. Well, it appears to me we are always going up there—waiting up there for an election.

Senator MAGNUSON. I wish their Government change their mind about another factor that has nothing to do with fish. Congressman do you have any questions?

Representative LOWRY. Yes. Governor, that was an excellent statement, I concur I think with just about everything you stated in your statement, it was excellent. Many of us are very concerned about buyback, we are worried about—

Senator MAGNUSON. I didn't mention buyback, that's another issue.

Representative LOWRY. We are concerned about it, as we enhance the capability of the treaty fisheries obviously if we still have the same amount of fish, and so on, we still have the same amount of nontreaty fishermen, we have ourself a problem, we have to make the buyback be effective. I notice the \$1 million supplement application, is that the correct term? How are you finding the reception from the marginal licensees for making this?

Mr. SANDISON. I think I can answer that. We have in our buyback division a large list of people who are willing to come under the buyback program give up their licenses if we have the money to pay for it. We have both—almost every type of gear, but particularly gillnet, troller, and some charter.

Representative LOWRY. This is licenses for persons that would be out of the market, forever?

Mr. SANDISON. Yes; correct.

Representative LOWRY. Are there enough marginal licenses, using that term, that we could reduce the number of licenses down to a correct fleet size?

Mr. SANDISON. Of course there is a lot of other efforts and a lot of other problems besides just the number of vessels. A marginal license today that is transferred to a highliner tomorrow, becomes a highliner license because it is probably put on a more effective fishing craft. The effort of the boat is very important, is he going to fish 2 days a week, or is he going to fish every day he can, all those things matter. I think that to a certain extent, as the competition gets greater and the tribes upgrade their fishing competence in terms of better equipment and so on, and because of the fact that particularly up in the Pacific National Salmon Fishery Commission, fishery in the United States, they usually get first start, which is a big advantage that eventually there will, just through economic necessity there will be a lot of fishermen decide to leave the fishing industry and they are starting to do that now.

Representative LOWRY. I also concur with the way, Governor, you talked about the Federal Government's oversight as to the use of funds.

Obviously, if we can't do something about this fleet size problem, the over-licensing problem, it is going to be very difficult for the rest to convince the Congress and the administration that we have a comprehensive fisheries program that is going to work. It is very important that we have cooperation, there is a lot of work on that, and it is going to be a very difficult problem getting past 48 or 49

of the States back there, with a sizable amount of money. And the second item—

Governor RAY. Could I interject here that there is the whole question of the international fishery on salmon where there has been, thanks to the 200-mile law, some reduction there, there are agreements and contracts worked out with other nations, by the U.S. Department of State, and although that impinges also on the proper size of the U.S. fleet, the Washington fleet, and I think that maybe speaking out of turn here, because both Mr. Sandison and Mr. Larson are very deeply involved, I think we would feel that since these stocks are predominantly those that are hatched and reared in the inshore waters of our State, we would feel that the State should have a larger voice in the negotiation of those treaties with foreign nations, including Canada.

Senator MAGNUSON. The treaties are subject to review every few years, those treaties we make within the 200-mile limit. That's the way the bill reads.

Governor RAY. It's a big improvement.

Senator MAGNUSON. The State should have an input on it, and everyone that is concerned about the salmon should have an input. The Government now, wants to include bottom fish and things of that kind, and the objective of the bill is to ultimately get all foreigners out of the 200-mile limit. But you couldn't do it overnight, so that's why I put in the bill to review it every few years. The pressure is great on some of the countries, like Japan and Russia, in keeping their quotas. We had a lot of arguments in committee about taking over jurisdiction of the 3-mile limit from the States; some people wanted to take it right from the shore. But as long as the council is there, you will have input.

Representative LOWRY. Another important question you are facing, and that you are addressing in your comments, is the required State match. Depending upon how you read the bill, we are concerned that there seems to be a requirement and a lack of credit for effort that has been done by the State to date, or that will be done by the State prior to the enactment of the act. Could you just summarize briefly the financial commitment and history of what the State has committed itself to? Frankly the chance of selling this to the rest of the country for \$90 million when you have 30 State legislators and Senate resolutions asking us to balance the budget will be tough. If it wasn't for Maggie we wouldn't have a prayer on some of these things. As a matter of fact, we are going to have to be able to show—and that's the truth, we are going to have to be able to show the work that the State has done as we get into this State-Federal match.

Governor RAY. It's quite true, and the testimony treated that very lightly and I am glad you addressed the question, because it gives us a chance to get those numbers in the record. It is true that we do have the world's largest hatchery program and to speak to that specifically I would really like to ask Mr. Sandison and Mr. Larson, both to comment because they will have the numbers much more accurate than I have.

Senator MAGNUSON. Help from the State is implied. You approached \$33 million I believe.

Mr. SANDISON. In accelerating the enhancement programs, yes. Governor RAY. But the total number is larger.

Senator MAGNUSON. We are still going to pay attention to the fisheries and the appropriation money.

Governor RAY. Oh, yes.

Mr. SANDISON. We have four hatcheries under construction now, Senator, and there will be about five more during the year 1980.

Senator MAGNUSON. The State program is going ahead?

Mr. SANDISON. Yes, it is.

Senator MAGNUSON. Supposing there is no bill at all, you are still going to go ahead with your enhancement program, aren't you?

Mr. SANDISON. Subject to the will of the legislature. Yes.

Senator MAGNUSON. I know that, it is subject to that, because of the *Boldt* decision, and the fix you have been in since then, since it has been enacted. I consider the Federal money is a supplement to what the State may be doing.

Governor RAY. Could I suggest Congressman, already that giving overall numbers here, but perhaps it would be interesting to have a breakdown of that, both for the commercial and the sport fishing and so on, and perhaps it would be better if we do that and submit it at a later time?

Mr. SANDISON. I might say that in the 19 years preceding the *Boldt* decision, the State spent \$122 million to produce and manage a harvest which was valued to the fishermen of \$616 million, so the State has been heavily invested for years and years, and there is a feeling that we want to continue.

Senator MAGNUSON. That is mainly Puget Sound, isn't it?

Mr. SANDISON. No, the Columbia River has received quite a bit of attention, although there are mitigations hatcheries there, but the Pacific coast changed also.

Senator MAGNUSON. Some of the Pacific coast changed, yes. But the bulk has been in Puget Sound?

Mr. SANDISON. The bulk of the hatcheries are in the sound, but the salmon, of course, go out into the ocean.

Senator MAGNUSON. Oh sure, I know that.

Mr. LARSON. Basically, Mr. Lowry, we have been doing what we have with the funds available, but we do not draw from the general funds, we do not have the ability to do that kind of matching, for us to match 50-50 to enhance the steelhead resource would be impossible for us because it is taking the funding we have to more or less operate and maintain the agency as it exists today.

Representative LOWRY. That's correct, yes. I know it is in the testimony that you called for a doubling of steelhead resource, and your availability, now Ralph what sort of enhancement program would it take to do that?

Mr. LARSON. Basically we are now stocking about 6 million steelhead migrants a year, probably 3 or almost 4 of those million are winter steelhead, and most of those would be in the case area involved in this particular legislation. About 4 million migrants a year.

Representative LOWRY. And it returns about 100,000 a year?

Mr. LARSON. To the total fishery, about 100,000 back to the fishery, probably equally that much escaping or almost that much escaping for spawning purposes.

Representative LOWRY. So you say that if we could have a return or catch of perhaps 200,000 that would go a long way toward our present crop?

Mr. LARSON. That would bring the sportsman back to where he was in 1974.

Representative LOWRY. So he can catch two-thirds instead of one-third of the fish?

Mr. LARSON. So he can catch 50 percent of a larger number, maybe 100 percent.

Senator MAGNUSON. They are getting so scarce now, that we discourage steelhead fishermen from going out.

Mr. LARSON. We have a lot of diehards who are not willing to give up, Senator.

Senator MAGNUSON. Well, they are not only steelhead fishermen, but all kinds of fishermen. I just read this release on an agreement with the Nisquallys and I see again this agreement is signed by the tribe and it contains a request from the U.S. Appropriations Committee of \$16,300,000.

Governor RAY. All these are necessary because the Federal Government takes the position in the beginning and taxes us.

Senator MAGNUSON. You can get this kind of agreement with all the tribes, but we can't take them separately and appropriate some to this one or appropriate some to the other one unless there is overall coordination. The one that comes along the line, it would be sort of the rabbit ahead of the dog, or a lure on a carrot, so that the other tribes will do the same thing.

Governor RAY. Correct.

Senator MAGNUSON. Will they get together?

Governor RAY. With the assistance of the Fisheries Council and Commission I think there will be good coordination, but I want to commend the Nisqually Tribe for taking the initiative.

Senator MAGNUSON. Just don't have the Senate appropriation, there's a House Appropriation Committee, too. I think the bills have to be signed by the President, subject to a veto with which I think we are familiar.

Governor RAY. I think we should invite him out for a nice fishing trip.

Senator MAGNUSON. This can be part of the overall package, can't it, if we pass the bill?

Governor RAY. I should think so. I see no reason why not.

Senator MAGNUSON. Instead of separately, this is the figure, and it can be part of the bill, rather than added to it.

I appreciate that you have devoted yourself to the legislation and the testimony and we will look very carefully at the substitute bill.

We thank you very much for coming.

Governor RAY. Thank you, Senator.

[The attachments referred to follow:]

MEMORANDUM

TO: Senate Committee on Commerce, Science and Transportation

FROM: Gordon Sandison, Director, Washington Department of Fisheries

SUBJECT: Section by Section Analysis and Proposed Amendments--
Administration Legislation

SECTION 1 - PURPOSES

This section indicates that it is the purpose of the Act to "overcome temporary economic dislocations arising from the decisions in the case of United States v. Washington," by establishing programs to assist treaty Indian and non-Indian commercial and recreational fishermen which:

- a. Provide for the purchase of commercial and charter fishing vessels, gear and licenses;
- b. Provide loans to treaty tribes and treaty fishermen to develop the industry; and,
- c. Provide for the increased enhancement of salmon and steelhead to improve the quality of commercial and recreational fishing.

Proposed amendments to this legislation are necessary to ensure that the Congress declare its intent that returns on investments by this and other enhancement programs be reasonably assured to the intended beneficiaries, in this case, local fishermen adversely impacted by implementation of U.S. v. Washington. This would occur through a mandate that all federal, state and tribal managers shall manage fisheries in their area of jurisdiction in a manner to protect the investment of local producing areas. Additionally, the legislation fixes a goal of doubling the available harvest in areas affected by implementation of U.S. v. Washington by supplementing existing state and tribal enhancement programs with federal grants to the state and the Northwest Indian Fisheries Commission. The goal of doubling the available harvest would be from a base year period of 1971-74.

SECTION 2 - DEFINITIONS

This section defines terms utilized throughout the remainder of the proposed legislation. We offer a number of technical changes to these definitions, many to ensure conformity

with substantive amendments to the legislation. Key changes include the following:

- a. The term "case area" is defined to clarify the intent of the Congress that the primary beneficiaries of the program are to be persons affected by implementation of U.S. v. Washington, and to clear up technical defects later occurring in the legislation regarding enhancement in the conservation area.
- b. The term "conservation area" is altered to conform with definitions in the Fisheries Conservation and Management Act in order to further ensure that this Act is not interpreted to extend federal jurisdiction to any area presently subject to state and tribal jurisdiction.
- c. The term "enhancement" is limited to projects undertaken and funded by the Act; this is to clarify that the federal program is viewed as supplemental to on-going and planned state, tribal and federal enhancement, and to ensure that enhancement planning on an area-wide basis remains the prerogative of local managers and not the Secretary of Commerce (see below). The definition is also revised to ensure that enhancement projects will increase production in a "biologically sound fashion" without utilization of highly controversial language which will add fuel to debate between advocates of increasing production through artificial propagation and advocates of increasing production through protection of natural stocks. Biological soundness is again the prerogative of local managers.
- d. The term "escapement" is not utilized in the Act, nor should it be (escapement goals are fixed by local managers in areas where salmon and steelhead originate).
- e. Reference to "salmon or steelhead resources" and "stocks" are deleted for technical and editorial reasons, and in the latter case because of the lack of agreement among experts as to the best definition of the term (the definition of "stocks" is highly controversial due to debate over endangered species).

TITLE I - COORDINATION

SECTION 101 - COORDINATION GRANTS

This section authorizes the Secretary of Interior to establish a grant program for the conduct of necessary research and planning to ensure coordinated management consistent with the purposes of the Act.

Proposed amendments emphasize the need to promote enhancement planning and coordinated enforcement among federal, state and tribal managers. (It is coordinated enhancement which is the

primary program goal in the legislation.) The proposal for enforcement is as consistent with recommendations by the state and treaty tribes during negotiations in 1978, and by the Regional Task Force.

SECTION 102 - AUTHORIZATION OF APPROPRIATION

This section authorizes expenditure of \$3 million in federal money for coordinated management, but requires that the state match any federal funds (unlike all other parties) dollar for dollar.

The proposed legislation is amended to increase funds for front-end planning and research, largely because of inclusion of monies for coordinated enforcement. The bill is further amended to eliminate any matching fund requirements by the state.

TITLE II - RESOURCE ENHANCEMENT AND HABITAT MAINTENANCE

SECTION 201 - RESOURCE AND HABITAT ENHANCEMENT PLANS

Subsections (a) through (c) of this section authorize the Secretary to establish a grant program for enhancement of salmon and steelhead in the conservation area pursuant to a comprehensive enhancement plan developed by the state and the Northwest Indian Fisheries Commission and approved by the Secretary of Interior. The enhancement plan is to include all existing and planned projects for the next five years, regardless of funding source, in the conservation area and related research which is limited to habitat improvement projects.

These subsections are amended to clarify the goal of the program to increase available harvests in the case and conservation areas. More importantly, this section limits the approval authority of the Secretary to enhancement planning and projects funded by this Act. Subsection (c) is further amended to allow research related to all enhancement included in the plan, to allow location of projects outside the case and conservation areas if necessary to maximize harvest in such areas, and to provide that enhancement on the Columbia River shall not adversely impact treaty rights of up-river tribes.

Subsection (d) of this section provides broad authority to the Secretary to fix standards (beyond those defined in the Act) for a conservation area enhancement plan, which standards are to include:

1. Assurance of positive benefits to all commercial and recreational fishermen in the conservation area;

2. Assurance that the plan protects existing stocks of salmon and steelhead;

3. Assurance that the plan increases the survival of natural and artificially propagated stocks;

4. Assurance that projects in the plan be economically and biologically sound; and,

5. Assurance that projects stand up under cost-benefit evaluation.

This section is amended to limit the authority of the Secretary to define standards beyond those established by the Congress. Again, for the federal government to impose its own, often confusing and conflicting biological standards on local resource managers is inconsistent with existing law and highly unacceptable. The amendments eliminate reference to highly controversial issues in dispute between natural and artificial production advocates and the potentially disastrous language inferring that all natural stocks not only must be protected, but increased through the program. This ignores the concepts of "biological soundness" developed by local managers and experts in the field who have long sought to develop measures to reconcile potential conflicts between artificial and natural production techniques. As drafted, the language would eliminate any prospect for artificial propagation in Washington. Further, this language ignores cooperative management agreements which are evolving through established federal district court processes by the state and the tribes. This on-going process properly defines and resolves conflicts between artificial and natural stocks, and the issue is a matter of local concern.

The section is further amended to assure that the plan developed for federal projects supplements and maximizes the contribution of enhancement and management plans for the case and conservation area developed by local jurisdictions for all projects. It eliminates the authority of the Secretary over all enhancement and management planning as is proposed by the Administration. Finally, the section is amended to have the plan identify potential projects to be funded by the federal government on a priority basis.

Subsections (e) and (f) identify the federal approval, modification and review processes for the enhancement plan. The bill provides a rather cumbersome review process, with the Secretary undertaking biological and technical evaluation of the plan. The Secretary is empowered to modify or amend the plan, apparently on his own initiative, and withdraw approval of the plan if his review, or that of the State or the Northwest Indian Fisheries Commission,

indicates the plan is inconsistent with the Act and that the State and the Commission have failed to correct any inconsistencies.

These subsections are amended to clarify that the focus of federal review is to ensure conformity with the Act, and to prevent the substitution of federal biological or technical principles for those of local jurisdictional managers. The bill would allow the Secretary to obtain technical input from the Washington Salmon and Steelhead Research Council, or appropriate designees thereof, to ensure that local experts have an opportunity to properly advise the Secretary whether the proposed plan conforms with the intent of the Act. This section is amended to confirm the authority of the state and tribes to develop and make modifications to the plan pursuant to existing management processes. Finally, the Secretary is given a fixed time to approve the plan in order to prevent unnecessary delays in planning and program implementation.

SECTION 202 - ENHANCEMENT PROJECTS

This section defines the process whereby individual enhancement projects are to be approved by the Secretary. The bill provides that the State and the Northwest Indian Fisheries Commission may, on their own, submit project proposals pursuant to an application form containing broad information as the Secretary requires, including five specific areas of inquiry defined by the Act.

This section is amended to specifically identify and limit the information to be developed by the State and the Northwest Indian Fisheries Commission in their project applications. More importantly, the section is amended to provide that the Northwest Indian Fisheries Commission and the State jointly submit project proposals based on priorities to which they have mutually agreed. This will prevent unnecessary competition for dollars among local managers, and better assure implementation of the enhancement program on a cooperative basis. A good example of how this cooperative effort will work is found in the recently approved Nisqually agreement. The amendments clarify that federal monies may be expended for the purchase of land, rights-of-way, or licenses necessary to the project.

SECTION 203 - APPROVAL AND FUNDING OF PROJECTS

This section provides that the Secretary may approve projects if consistent with the enhancement plan and the intent of the Act. It requires a match, dollar for dollar, for any project proposed by the state, but not for those proposed by the Northwest Indian Fisheries Commission. It offers a credit for monies spent by the State through its own enhancement program from the effective date of the federal Act to the time of approval of the enhancement plan.

The bill is amended to ensure that the Secretary will approve projects, subject to budget constraints, jointly submitted by the State and the Northwest Indian Fisheries Commission, if consistent with the enhancement plan and the Act. An amendment clarifies that all monies for the project are to be released to the State or the Northwest Indian Fisheries Commission once the project is approved. The matching fund requirements for the State are eliminated. As drafted, the bill fails to recognize past investments by the state in management and enhancement, including the substantial (approximately \$32.5 million) recent investment in enhancement by the State to offset the implications of U.S. v. Washington. It would also inhibit the expenditure of remaining State monies until the Congress acts. This is hardly an incentive for the responsible management and operation of the on-going State program.

SECTION 204 - REVIEW OF ENHANCEMENT PROJECTS

This section provides for establishment of a process of review by the Secretary of federally funded enhancement projects, and would allow the Secretary to suspend distribution of federal monies if any project is not carried out in conformity with the enhancement plan or the Act.

SECTION 205 - AUTHORIZATION OF APPROPRIATIONS

This section authorizes an appropriation of \$28 million for enhancement projects during the ten years following the effective date of the Act, and an additional \$19 million for operation and maintenance of projects authorized by the Act for seven years after a project is completed.

This section is amended to provide federal monies in an amount considered by the Regional Task Force and the Administration as necessary to offset the economic dislocation caused by U.S. v. Washington, and in an amount sufficient to supplement on-going state and tribal programs to double the harvest. The higher appropriations reflect approximately the amount the Administration bill would have required from the state as matching monies over and above the on-going state program. The bill is amended to allow for all projects to be under way within six years, so that close to full program benefits will have accrued within a ten year period. Operation and maintenance monies are available for eight years per project so that full production can be obtained (at least two four year cycles) before this burden passes to the state and the tribes. Finally, the section is amended to require that the monies authorized by the Act are contingent upon State and Northwest Indian Fisheries Commission agreement on a comprehensive enhancement plan for the expenditure of federal monies within eighteen months of the effective date of the Act.

TITLE III - COMMERCIAL FISHING FLEET ADJUSTMENTSECTION 301 - FLEET ADJUSTMENT PROGRAM

This section authorizes the Secretary of Commerce to distribute monies for the purchase of commercial and charter vessels, gear and licenses. It requires that the state match on a dollar for dollar basis all federal monies expended for this program.

This section is amended to eliminate the state matching fund requirement for the program. This recognizes that the program is to provide assistance to fishermen adversely impacted by implementation of federal treaties made in behalf of all U.S. citizens.

SECTION 302 - STANDARDS

This section provides the Secretary of Commerce broad authority to establish standards for what is said to be a state buy-back program. It would require that each commercial and charter fleet be reduced in a balanced or equal manner and that the program reduce total fishing effort. This section effectively requires the state to enact legislation to undertake a massive new program to prevent any upgrading of fishing efficiency on a fleet-by-fleet basis by all licensed fishermen remaining in the fishery.

This section is amended to limit the power of the Secretary to develop standards beyond those defined by the Act, and to impose on the state a massive license limitation program in order to obtain any federal funds. The amendments would have the state submit a plan within three months from the effective date of the Act to the Secretary consistent with the standards and requirements established in Sections 302 and 303 of the Act. The standards would require establishment of a program to reduce the number of licenses and gear in commercial and charter fleets, but not necessarily on a balanced basis. This latter factor is important because the need for economic relief and gear reduction varies by fleet. This section and Section 303 would authorize a voluntary program which would substantially reduce the number of licenses consistent with existing state law. No unmanageable efficiency control program is required.

SECTION 303 - PROGRAM APPROVAL

This section establishes a process whereby the state will submit a program to the Secretary, consistent with standards in Section 302, for his approval. The Secretary would approve the

program if it met nine requirements stated in the Act, plus any additional standards established by the Secretary. Included among these requirements are a provision that the state establish a program to eliminate marginally productive fishermen from the fishery, apparently through means other than a voluntary buy-back program. This, like the provisions in Section 302, would require a new program, to be enacted by the Washington legislature, which is not likely needed or forthcoming, particularly if enhancement programs are as successful as projected. Many of the requirements articulated in Section 303 make sense and are consistent with the existing voluntary buy-back program in operation in the state.

The section is amended to eliminate the broad authority of the Secretary to impose on the state standards other than those required by the Act. An amendment would allow consideration of negative tax implications in the fixing of bonuses or other incentives to assure reasonable participation in the program, reasonable gear reduction, and adequate compensation to fishermen adversely impacted by implementation of *U.S. v. Washington*. The bill is amended to eliminate the requirement that the state institute a limited entry program by elimination on a non-voluntary basis of the fishing privileges of the large number of marginally productive fishermen. Instead, an amendment would allow the state to eliminate windfalls and unnecessary erosion of funds by establishment of a license purchase only program for this class of fishermen. This program would parallel one instituted by the state in 1978, and would assure significantly greater gear reduction than if vessels were to be purchased from such fishermen. Finally, this section is amended to require action by the Secretary on the plan submitted by the state within sixty days, and allows for modifications of the plan, much like for the enhancement plan, within thirty days.

SECTION 304 - REVIEW BY THE SECRETARY OF COMMERCE

This section provides for review and audits of the program implemented by the state on a continuing basis, and allows the Secretary to cut off federal funds if the Secretary finds the program is not being operated in conformity with the provisions of the Act.

SECTION 305 - AUTHORIZATION OF APPROPRIATIONS

This section authorizes an appropriation of \$25 million as the federal share in funding the program authorized by the Act.

This section is amended to reflect the funding needs for a successful program acknowledged by both the Administration and the Regional Task Force, and replaces the proposed state contribution

with federal funds. To assure gear reduction as quickly as possible, the time for operation of the program is reduced from ten to six years.

TITLE IV - TRIBAL FISHERY DEVELOPMENT PROGRAM

The state does not comment on this proposed program, as the tribal assistance program appears the exclusive business of the tribes and the federal government. We are supportive of assistance to the tribes to maximize the benefits to be accrued from implementation of the federal treaties.

TITLE V - MISCELLANEOUS

This title offers miscellaneous provisions to allow the federal government to institute necessary regulations and require reports on authorized programs as needed. The bill states that this Act does not alter jurisdiction of any party or supersede or repeal existing law.

The bill is amended to reflect that all federal, state and tribal managers shall manage within their areas of jurisdiction consistent with the purposes and goals of the Act.

SECTION 3

Proposed Amendments by State of Washington--
Substitute Bill

A B I L L

To provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the Treaty and non-Treaty harvesters of those resources, and for other purposes.

Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled:

SEC. 1 - PURPOSES

In order to assist treaty and non-treaty harvesters of the salmon and steelhead resources within the case area and conservation area established as defined by this Act in the State of Washington to overcome temporary economic dislocations arising from the decisions in the case of United States v. Washington, this Act authorizes the establishment of a cooperative program involving the United States, the State of Washington, the Treaty Tribes, and other appropriate parties, to:

(1) encourage stability in the commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and non-treaty fisheries through (a) the purchase of commercial and charter fishing vessels, gear and licenses; (b) loans to Treaty Tribes and treaty fishermen to develop the industry; and (c) coordinated research, enhancement and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

The Congress further declares that it is the purpose of
this Act that the United States, the State of Washington and Treaty
Tribes of the conservation area, through their designated management

agencies, shall ensure that management measures within their respective areas of jurisdiction provide reasonable assurances that the benefits of this cooperative program shall accrue to Washington licensed commercial and recreational fishermen and Treaty Tribes who harvest salmon and steelhead within the conservation area in a manner consistent with the standards and objectives of local jurisdictions, applicable federal law for the conservation and allocation of anadromous fish, and with the provisions of this Act. It is the goal of this program, when taken together with existing or approved federal, state and tribal enhancement programs, to double the available harvest of salmon and steelhead in the case area and conservation area from levels as of a base period for the years 1971 to 1974.

SEC. 2 - DEFINITIONS

As used in this Act, unless the context otherwise requires:

(1) The term "case area" shall include those areas of the State of Washington in which fishing rights by treaty tribes have been established by federal courts in the case, U.S. v. Washington.

(2) The term "charter vessels" means any vessel licensed by the State of Washington carry passengers for hire for the purpose of recreational salmon and steelhead fishing.

(3) The term "charter fishing" means authorized fishing undertaken by from charter vessels.

(4) The term "commercial fishing" means fishing for the purpose of sale or barter.

(5) The term "commercial fishing vessel" or "fishing vessel" means any vessel, boat, ship or other craft which is used for, equipped-to-be-used-for, or-of-a-type-which-is-normally-used-for and licensed by the State of Washington or Treaty Tribes for commercial salmon fishing.

~~(5) (6) The term "conservation area" means all-salmon-and steelhead-habitat-within-the-State-of-Washington-except-for-the-Columbia River-drainage-basin, and-in the fishery conservation zone adjacent to the State, subject to the jurisdiction of the United States.~~

~~(6) (7) The term "enhancement" means any-measures-taken specific new projects undertaken pursuant to this Act to increase the production of naturally-spawning-or-artificially-propagated-stocks-of salmon or steelhead in a biologically sound fashion, or to protect, conserve or improve the habitat of such-stocks salmon or steelhead.~~

~~(7) --The-term-"escapement"--means-the-number-of-salmon-or steelhead-which-reach-their-spawning-grounds-or-hatchery-facilities-and-are-available-for-spawning.~~

(8) The term "habitat" means those portions of the land or water, including the constituent elements thereof, (a) which salmon or steelhead occupy at anytime during their life cycle or (b) which affect the salmon or steelhead. ~~resources-~~

(9) The term "Northwest Indian Fisheries Commission" means the organization established by the Treaty Tribes to assist and coordinate tribal fisheries management within the conservation area.

(10) The term "recreational fishing" means fishing for personal use and enjoyment and not for sale or barter.

(11) The term "salmon" means any anadromous species of the family Salmonidae and genus Oncorhynchus, commonly known as Pacific salmon, including:

Chinook (king) salmon - Oncorhynchus tshawytscha;

Coho (silver) salmon - Oncorhynchus kisutch;

Pink (humpback) salmon - Oncorhynchus gorbuscha;

Chum (dog) salmon - Oncorhynchus keta; and

Sockeye (red) salmon - Oncorhynchus nerka.

~~(12) -- The term "salmon or steelhead resource" means any stock of salmon or steelhead, or any habitat of salmon or steelhead.~~

(13) (12) The term "Secretary" means the Secretary of Interior, unless otherwise specified.

(14) (13) The term "State" means the State of Washington.

(15) (14) The term "steelhead" means the anadromous rainbow trout species Salmo gairdneri, commonly known as steelhead.

~~(16) -- The term "stock" means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.~~

(17) (15) The term "treaty" means any agreement between the United States and any Indian tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the case area or conservation area.

(18) (16) The term "Treaty Tribe" means any Indian tribe or similar entity, with usual and accustomed fishing grounds in the case area or conservation area, whose fishing right under a treaty has been recognized by a federal court. ~~or the Secretary of the Interior.~~

Title I - Coordination

SEC. 101. - COORDINATION GRANTS

(a) The Secretary is authorized to establish a program to provide grants to prepare plans for programs established in this Act and to promote research, ^{enhancement} and coordinated management/and enforcement of the salmon and steelhead ~~resources~~ within the case area and conservation area consistent with the purposes of this Act.

(b) Such grants shall be available for use by the State, the Treaty Tribes, the Northwest Indian Fisheries Commission, or any joint entity established for undertaking research, or providing advice on or mechanisms for coordinated management, or preparing the plans and programs described in this Act.

SEC. 102. - AUTHORIZATION OF APPROPRIATION

{a} There are authorized to be appropriated to the Secretary ~~\$3,000,000-~~ \$8,000,000 for the purposes of carrying out the provisions of this Title.

~~{b}--No-grant-to-the-State-under-this-Title-shall-exceed-50-per-centum-of-the-total-cost-of-carrying-out-the-activity-for-which--the-grant-is-made-~~

Title II - Resource Enhancement and Habitat Maintenance

SEC. 201. - RESOURCE AND HABITAT ENHANCEMENT PLANS

(a) Authority

The Secretary is authorized to establish a program to provide grants for projects for the enhancement of ~~the~~ salmon and steelhead ~~resources-of~~ available for harvest in the case area and conservation area.

(b) Plan

Any such project must be in accordance with a comprehensive enhancement plan developed and agreed to by the State and the Northwest Indian Fisheries Commission and approved by the Secretary in consultation with the Secretary of Commerce as provided in this Title.

(c) Scope

The comprehensive enhancement plan, and any revisions, amendments or modifications of such plan, shall describe all enhancement projects ~~in-the-conservation-area~~ to be funded by this Act within

or without the case area, and associated stocking policies (when relevant) including any related research on necessary to such enhancement or to habitat improvement projects, anticipated by the State and the Northwest Indian Fisheries Commission for a period of at least five years. Provided, the location of such projects shall not be confined to the case area or conservation area. Provided further, no funds shall be expended for projects in the Columbia River Basin unless such projects can be operated in a manner which does not adversely impact established treaty rights of tribes who harvest salmon in the Columbia River drainage basin.

(d) Standards

The comprehensive enhancement plan shall include such standards, including restrictions or conditions, as are necessary to assure that any project included in the plan contributes toward the balanced and integrated development of the salmon and steelhead ~~resources-of~~ in the case area and conservation area. Such standards shall: ~~include-but-not-be-limited-to-provisions-designed-to:~~

(1) assure that all Washington licensed commercial and recreational fishermen and the Treaty Tribes who harvest salmon or steelhead within the case area or conservation area shall have an opportunity to ~~participate share~~ in the benefits of resource development;

(2) ~~protect-existing-stocks-of-salmon-and-steelhead, the biological integrity and diversity, of such stocks and minimize competition and adverse interaction between naturally spawning and artificially propagated stocks-~~ be in accordance with sound biological principles in order to maximize production of salmon and steelhead.

~~{3}--increase-survival-of-both-naturally-spawning-and-artificially-propagated-salmon-and-steelhead-stocks;~~

~~{4}~~ (3) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific findings; and

~~{5}~~ (4) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project; and

(5) assure that all projects included within the plan are designed and will operate to effectively supplement the contribution of existing and planned state, federal and tribal enhancement activities to fisheries in the case area and conservation area.

The comprehensive plan shall seek to identify high, medium and low priority federally funded projects, with those projects best contributing to accomplishment of the purposes of this Act being high priority.

(e) Approval

(1) The Secretary, in consultation with the Secretary of Commerce, shall review the comprehensive enhancement plan and approve such plan if found to be consistent with this Act and other applicable law.

(2) ~~Upon-receiving~~ Prior to approving the plan, the Secretary shall:

(A) publish a notice in the Federal Register of the availability of the plan;

(B) provide a copy of the plan to the Secretary of Commerce, the Secretary of State, the Attorney General, the Pacific Fishery Management Council, the Washington Salmon-Steelhead Research Council, and, upon request, to any other interester person or group; and

(C) solicit and consider the comments and views of such Secretaries, the Council, the Washington Salmon-Steelhead Research Council, and other interested persons or groups, with respect to the plan, and provide such comments to the State and the Northwest Indian Fisheries Commission.

~~(3) -- Prior to approving the plan, the Secretary shall:~~

~~(A) -- undertake a biological and technical evaluation of the plan, in consultation with individuals knowledgeable with regard to the salmon and steelhead resources of the conservation area;~~

(B) (D) consult with the Secretary of State, with respect to the effect of such plan on any international fisheries; and

(C) (E) determine whether the State or the Northwest Indian Fisheries Commission, acting through its chosen agency or agencies, has the authority to carry out the plan in accordance with this Act, and any standards included within the comprehensive enhancement plan.

(3) The Secretary shall approve such plan within 60 days of the date of receipt of the plan. If the Secretary finds that such plan is not in conformity with the provisions of this Act, he shall return said plan to the State and the Northwest Indian Fisheries Commission with recommendations. Any modification of the plan shall be approved unless inconsistent with the provisions of this Act within 30 days from the date of receipt of the proposed modification by the Secretary.

(f) Review, Modification, Amendments or Revisions

The State and the Northwest Indian Fisheries Commission shall review the comprehensive enhancement plan ~~shall be reviewed~~ periodically and the plan may, with the approval of the Secretary in consultation with the Secretary of Commerce, be revised or modified as appropriate and as provided in subsection (e) of this section.

The Secretary, the State, or the Northwest Indian Fisheries Commission may request a review, modification, or revision of the plan at any time. The Secretary may withdraw approval of a the plan when he finds, upon receipt of any reports by the State and the Northwest Indian Fisheries Commission, that (1) the plan or its implementation is not consistent with the Act and (2) no modification or revision has been agreed to by the State and the Northwest Indian Fisheries Commission to correct any such inconsistencies.

SEC. 202. - ENHANCEMENT PROJECTS

After the approval of a comprehensive enhancement plan, the State ~~or~~ and the Northwest Indian Fisheries Commission ~~may~~ shall jointly submit a project proposals to the Secretary, in such manner and form as the Secretary shall prescribe. Such application shall include: ~~at least:~~

(1) plans, specifications and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs for seven eight years after ~~commencement~~ completion of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to:

(A) a description of ~~the~~ affected stocks salmon and steelhead;

(B) an analysis of the expected impacts on ~~the~~ salmon and steelhead ~~resource~~; and

(C) a projection of the expected impacts on each type of commercial and recreational fishing.

(3) evidence that the State, the Northwest Indian Fisheries commission, or Treaty Tribe, acting through its chosen agency or agencies, ~~has-obtained-or-is-likely~~ is able to obtain or holds any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project; and

(5) such other information as the Secretary determines is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this Act.

SEC. 203. - APPROVAL AND FUNDING OF PROJECTS

(a) The Secretary may shall approve any project that is consistent with the approved enhancement plan and the provisions of this Act, and shall promptly notify the State, the Northwest Indian Fisheries Commission, Treaty Tribes, and upon request any other interested party of the approval of a project and the amount of funding made available under this Title for such project. Upon approval of any project, the Secretary shall release to the State or the Northwest Indian Fisheries Commission those funds to be available under this Title for such project.

~~(b)--The-total-federal-share-of-all-enhancement-projects funded-annually-by-this-section-shall-not-exceed-50-per-centum-of-the total-amount-expended-for-such-projects,-except-that-this-limitation-shall-not-apply-to-projects-proposed-by-the-Northwest-Indian-Fisheries Commission--The-State-share-may-include-both-real-and-personal-property-and-may,-in-the-discretion-of-the-Secretary,-in-consultation-~~

~~with the Secretary of Commerce, include such amounts spent by the State, after the enactment of this Act but before approval of the ----- comprehensive plan, for enhancement projects consistent with this Act and the plan, Title to, or other interest in, such property shall remain within the State.~~

~~(e) -- The federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this Act and the goals of the comprehensive plan.~~

SEC. 204 - REVIEW OF ENHANCEMENT PROJECTS

The Secretary shall establish, in consultation with the State and the Northwest Indian Fisheries Commission, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this Act, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan and this Act.

SEC. 205. - AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this Title, not to exceed the following sums:

(1) ~~\$20,000,000~~ \$42,000,000 for enhancement projects, to be available over a period of ~~10~~ 6 years from the effective date of this Act; and

(2) ~~\$19,000,000~~ \$28,500,000 for operation and maintenance, where necessary of enhancement projects authorized under this Title,

to be available over a period of 7 8 years following completion of each such project.

(3) No funds provided for projects approved under this Title shall be distributed by the Secretary until the State and the Commission have agreed to a comprehensive enhancement plan as provided in this Title, and the Secretary has approved such plan. If the State and the Commission fail to submit a plan to the Secretary within eighteen months from the effective date of this Act, the Secretary may revert moneys appropriated pursuant to this authorization to the Treasury.

Title III - Commercial Fishing Fleet Adjustment

SEC. 301. - FLEET ADJUSTMENT PROGRAM

(a) The Secretary of Commerce, upon approval of a program submitted pursuant to section 303 of this Title, is authorized to distribute Federal funds to the State, subject to the standards, conditions and restrictions set forth in this Title, for the purchase of commercial fishing and charter vessels, gear and licenses by the State in accordance with the provisions of this Title.

~~(b) -- The federal share payable under this Title shall not exceed 50 per centum in any fiscal year of the total cost for the program in that fiscal year. -- Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this Title shall vest upon purchase in the State. -- If the State sells such vessels or other property, title may pass in accordance with such sale. --~~

SEC. 302. - STANDARDS

~~The Secretary of Commerce in consultation with the State, shall establish standards for the preparation of the program, The State of Washington shall submit to the Secretary of Commerce a program plan within three (3) months from the effective date of this Act which is designed to:~~

~~{1}--reduce-effectively-and-efficiently-the-level-of-fishing-effort-on-the-salmon-resources-of-the-conservation-area;--~~

~~{2}--achieve-a-specific-equitable-and-balanced-reduction-in-the-numbers-of-commercial-fishing-and-charter-vessel-licenses-and-vessels-within-the-conservation-area;~~

{3} (1) provide incentives for early retirement of licenses, or early sale of vessels and gear;

{4} (2) set aside specific allocations of funds for each gear type to achieve the specific reductions provided for in the program; and

{5} (3) obtain an effective and expeditious reduction in the number of vessels and licenses in the overall fishing capacity of the non-Indian commercial and charter salmon fishing fleets in the case area and conservation area.

SEC. 303. - PROGRAM APPROVAL

(a) The State shall submit its program and submit revisions, modifications or amendments to the Secretary of Commerce, in accordance with standards established pursuant to Section 302 and in such manner and form as the Secretary of Commerce shall prescribe.

(b) Prior to approving such program or any revision, modification or amendment, and authorizing federal funds to be distributed in accordance with this Title, the Secretary of Commerce must find that:

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this Title; ~~and any standards established by the Secretary of Commerce under this Title;~~

(2) the State program provides for a restriction on the purchase of any fishing vessel unless all State commercial salmon fishing licenses attached to the vessel are also sold to the State;

(3) the State program provides that no person may purchase from the State any vessel which that person had previously sold to the State;

(4) the State program provides that no person, except for a member of a Treaty Tribe, may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the conservation area;

(5) the State program provides for purchase of vessels and gear at their fair market value;

(6) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses and the use of bonuses and schedules, to:

(A) secure an early retirement from the salmon fishery; and

(B) recognize productiveness or passenger carrying capacity;

and,

(C) offset negative tax consequences resulting from the sale of capital assets.

(7) the State program ^{may} provides criteria to ~~reduce the~~ number of outstanding purchase licenses only from marginally productive commercial fishermen;

(8) the State maintains a moratorium, or similar program, ~~to preclude the issuance of new~~ prevent any increase in the number of commercial and charter salmon fishing licenses as of the effective date of this Act; and

(9) the State has established a revolving fund for the operation of the fleet reduction program that includes individual accounts for each gear type and that any monies received by the State from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least three years from the date of ~~receipt~~ program inception, be placed in the appropriate gear type account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels, gear and licenses in accordance with the provisions of this Title.

(c) The Secretary of Commerce ~~may~~ shall approve ~~revisions,~~ modifications or amendments to the program as appropriate, such plan within 60 days from the date of receipt of the plan. If the Secretary determines that such plan is not in conformity with the provisions of this Act, he shall return said plan to the State with recommendations. Any modification of the plan shall be approved unless inconsistent with the provisions of this Act within 30 days of receipt by the Secretary.

SEC. 304. - REVIEW BY THE SECRETARY OF COMMERCE

(a) The Secretary of Commerce shall conduct a continuing review of the State program to determine whether the program remains consistent with the purposes of this Act and the provisions of this Title. Such review shall include a biennial audit of the records of

the State program.

(b) If the Secretary of Commerce finds that the program or the administration thereof is no longer in compliance with this Title, he shall reduce or discontinue distribution of funds under this Title, or take other appropriate action.

(c) If the Secretary of Commerce finds that any money given provided to the State or obtained by the State from the resale of any fishing vessel or gear purchased under the program is not being used in accordance with the provisions of this Title, the Secretary shall recover from the fund and place in the United States Treasury such amount of such monies as are equivalent to the federal share distributed to the State under this Title.

SEC. 305. - AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary of Commerce, for the purposes of carrying out the provisions of this Title, ~~\$25,000,000~~ \$50,000,000 which shall be available over a period of ~~10~~ 6 years from the effective date of this Act.

Title IV - Tribal Fishery Development Program

SEC. 401. - TRIBAL PROGRAM

(a) Authorization

The Secretary is authorized to establish a program to provide for loans to Treaty Tribes or Treaty Tribe fishing corporations for carrying out, or relending to individual Treaty Tribe fishermen in the conservation area for carrying out, projects to modernize and develop Treaty Tribe salmon and steelhead fishing operations.

(b) Plan

Any such loans must be for projects in accordance with a comprehensive plan developed by the Northwest Indian Fisheries Commission and approved by the Secretary.

(c) Scope

The comprehensive plan shall outline the fishery needs and objectives of each of the various Treaty Tribes and the goals of a development program designed to achieve such needs and objectives.

(d) Projects

Any such loan shall be for projects:

- (1) for purchase, replacement, or modernization of salmon and steelhead fishing vessels; or
- (2) for construction, rental, purchase or improvement of fishing facilities related to salmon and steelhead harvesting but not including processing or similar facilities.

SEC. 402. - APPROVAL

No loan authorized under this Title may be approved except in accordance with the comprehensive plan, the provisions of this Act, and other applicable law.

SEC. 403. - REVIEW

The Secretary shall conduct a continuing review of the Tribal program and its implementation to determine whether the program or its administration is consistent with the plan and the purposes of this Act and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the plan or this Act.

SEC. 404. - REVOLVING FUND

There is hereby created within the Treasury a separate fund for Treaty Tribal fishery development (hereafter in this section called "the fund") which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of Title IV of the Act. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation acts. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847-849) for wholly-owned Government corporations.

1) The fund shall consist of such amounts as may from time to time be appropriated to provide capital for the fund, and all amounts received by the Secretary as interest payments or repayments of principal on loans, fees, and any other moneys, property, or assets derived by him from his operations in connection with this Act which are deposited in the fund.

2) All loans, administrative expenses, including reimbursements to other Government accounts, and repayments pursuant to operations of the Secretary under this Act shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into Treasury as miscellaneous receipts interest on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during this year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall be not less than a rate determined by taking into consideration the average market yield during

the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary of the Interior determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

SEC. 405. - AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary of the Interior, for the purposes of carrying out the provisions of this Title, \$15,000,000 which shall be available over a period of ten years from the effective date of this Act.

Title V - Miscellaneous

SEC. 501. - REGULATIONS

The Secretary, or the Secretary of Commerce, as appropriate, may promulgate such regulations, in accordance with Section 553 of Title 5, United States Code, as may be necessary to carry out this Act.

SEC. 502. - REPORTS

The State and the Northwest Indian Fisheries Commission shall submit to the appropriate Secretary an annual report on the status of the programs authorized by this Act or any other relevant report requested by such Secretary.

SEC. 503. - RELATION TO OTHER LAWS

Nothing in this Act shall be construed --

{1} to diminish either Federal, State or Tribal jurisdiction, responsibility or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects. or

{2}--as-superseding,-modifying,-or-repealing-any-existing-applicable-law:



STATE OF
WASHINGTON

Dixy Lee Ray
Governor

OFFICE OF THE GOVERNOR

Legislative Building, Olympia, Washington 98504

February 6, 1980

The Honorable Warren G. Magnuson
United States Senator
127 Russell Building
Washington, D.C. 20510

Dear Senator Magnuson:

The state of Washington and the Nisqually Indian Tribe, recognizing their mutual interests in the fishery resources of the Nisqually River system, have had their fishery managers work together the past two and one-half years to develop a joint, comprehensive management plan for the Nisqually Drainage. The Cooperative Nisqually River Drainage Plan examines the present and potential fishery production of the Nisqually system in light of the state and tribal goals to improve significantly the economic and recreational benefits to both state and tribal fishermen and other elements of our populations interested in the fishery resources of the Nisqually.

This Plan has been agreed upon as a first element of the South Sound portion of a comprehensive Puget Sound enhancement plan to be jointly approved by the tribes and the state. It is consistent with the specific proposals and the underlying cooperative enhancement process suggested in the Administration's proposed legislation before your committee. It embodies the approach that you have so actively encouraged in the resolution of state and tribal differences, particularly in the area of fisheries. Guided by your suggestions, the state and the Nisqually Tribe have achieved a mutually acceptable and beneficial agreement for cooperative fisheries management.

This agreement is a model of state and tribal cooperation in the management of the resources of a major Northwest drainage system. It considers the complex problems that face Nisqually origin salmon as they pass through intercepting fisheries. Stocks from other systems, particularly those with substantial hatchery production, have generally predominated in those fisheries, often resulting in the over harvest of Nisqually stocks long before they approach the South Puget Sound sport and terminal treaty Indian fisheries.

The Plan keeps in mind the harvest management goal of enhancing the resource for the benefit of all state and tribal fishermen and associated industries, giving special consideration to the tribal management policy favoring the strengthening of tribal terminal area fisheries in southern Puget Sound and to the state policy emphasizing the development of the South Sound area as an important sport fishery. It also calls for the cooperative improvement and maintenance of quality environmental conditions for fishery production in the Nisqually Drainage, and includes the cooperation of the U.S. Army at Fort Lewis as well as the U.S. Fish and Wildlife Service in this endeavor. Cooperative management of Nisqually fishery resources within this framework is expected to go far in relieving the problems that have resulted from heavy Canadian and United States marine harvests in mixed-stock areas as well as other factors that contributed to the general decline of Nisqually salmon runs.

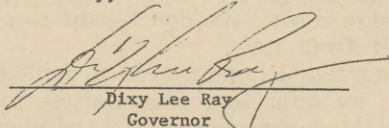
The Honorable Warren Magnuson
February 6, 1980
Page 2

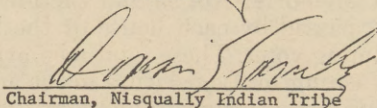
The Nisqually Indian Tribe and the state of Washington are committed to making this Plan work, for the benefit of all users of these fishery resources. Our fishery management agencies, the Northwest Indian Fisheries Commission, and the affected federal agencies, have all allocated time and resources to the successful implementation of this effort. Additional federal funding, however, is essential to solidify and secure the success of both the tribal and state obligations under the plan and to assure that actual benefits are realized by tribal and state fishermen. Your support of this cooperative management effort is sought in the form of your sponsorship of the appropriations necessary to the plan's implementation.

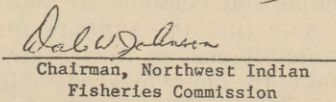
It is our joint belief that this agreement will be consistent with any comprehensive Puget Sound enhancement plan developed by the tribes and the state. Since any delays in funding result in the substantial delay of benefits to the resource and the fishermen, as well as increased project costs due to inflation, we urge that action to fund proposed projects be undertaken immediately, regardless of the progress of proposed legislation. Our staffs are prepared to provide you such additional explanations and justifications as you require or deem appropriate.

We appreciate the support you have given all of us in our struggle to develop a positive relationship for the achievement of cooperative fishery management in the Northwest. We look forward to discussing our goals and achievements and this request with you, at your coming hearings in Seattle and otherwise, as you are available.

Sincerely,


Dixy Lee Ray
Governor


Chairman, Nisqually Indian Tribe


Chairman, Northwest Indian
Fisheries Commission

cc: Washington Congressional Delegation
The Honorable Cecil D. Andrus
Mr. Lee Alverson

Senator MAGNUSON. We have a panel here now, Rollie Schmitten, Lowell Peterson, Jerry Vrooman, and John Martinis. Are they all here?

Welcome. Glad to see you.

Who is going to lead off?

**STATEMENT OF HON. ROLLIE SCHMITTEN, EXECUTIVE CHAIRMAN,
HOUSE NATURAL RESOURCES COMMITTEE; ACCOMPANIED BY
HON. JERRY VROOMAN, COCHAIRMAN; HON. JOHN MARTINIS,
FORMER CHAIRMAN; AND HON. LOWELL PETERSON, CHAIRMAN,
SENATE RESOURCES COMMITTEE**

Mr. SCHMITTEN. My name is Representative Rollie Schmitten I am the executive chairman of the house and natural resources committee of the State legislature. With me today are Senator Lowell Peterson, chairman of the senate resources committee, Representative Jerry Vrooman, cochairman of house and natural resources committee, and Representative John Martinis, former chairman of the house and natural resources committee, and a member of the Pacific Fisheries Management Council. We are extremely grateful to you, Mr. Chairman, and distinguished colleagues for allowing us the privilege to extend the following comments to your committee today.

I have been asked to read the statement on each behalf of these gentlemen and the Washington State Legislature. We are here to respond to your questions your committee may have as to the views of the State legislature regarding legislation being considered by your committee. Please feel free to direct any questions you may have to any one of us.

Senator MAGNUSON. We don't want to ask so many questions; we want to hear from you.

Mr. SCHMITTEN. I hope we can provide them.

To begin, we offer to the committee for inclusion in the record House Joint Memorial No. 35 and the identical Senate Joint Memorial No. 113, passed by each house of the State legislature last week by overwhelming votes. These joint memorials reflect the strong interest of the Washington Legislature in the activities of your committee, and in obtaining appropriate Federal assistance for the State of Washington's important commercial and recreational fishing industries. You will note that the support for these joint memorials is bipartisan and unanimous, as it was approved in the Senate by a vote of 43 to 0 and in the house by a vote of 97 to 1.

[The resolution follows:]

HOUSE JOINT MEMORIAL NO. 35 AND SENATE JOINT MEMORIAL NO. 113

State of Washington, 46th Legislature, 1980 Regular Session

(By Representatives Schmitten, Vrooman, Martinis, Dawson, Monohon, and Erak; By Senators Peterson, Rasmussen, and Talley)

Read first time January 22, 1980, and referred to Committee on Natural Resources.

TO THE HONORABLE JIMMY CARTER, PRESIDENT OF THE UNITED STATES, AND TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN CONGRESS ASSEMBLED, TO THE SECRETARY OF COMMERCE, AND TO THE SECRETARY OF INTERIOR.

We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

WHEREAS, The need to encourage stability in Washington's commercial, charter, and recreational fishing industries has been well recognized by the Washington legislature, state and federal agencies, the Carter Administration, and many members of the Congress, since implementation of federal court decisions in *U.S. v. Washington*; and

WHEREAS, The citizens of the state have invested heavily in the management and enhancement of Washington's salmon and steelhead resources, including a commitment in 1977 of \$31.5 million for new capital facilities to supplement the state's existing hatchery program to further increase the supply of salmon:

NOW, THEREFORE, Your Memorialists respectfully pray that the Congress recognize the importance of the state's fishing industry and enact legislation which will contribute to its stability by:

(1) Providing federal moneys for enhancement of salmon and steelhead which, when taken together with the state's existing program, will be sufficient to double the available harvest for Indian and non-Indian fishermen who fish in areas affected by the decisions in *U.S. v. Washington*;

(2) Requiring that all fisheries management agencies having jurisdiction over anadromous fish during their migratory cycle develop management measures within their respective areas of jurisdiction which will assure that the benefits of enhancement by federal, state, and tribal governments shall accrue to Washington's commercial, recreational and Indian fishermen; potential in a manner consistent with existing state law; and Indian fishermen;

(3) Providing direct economic relief to non-Indian commercial and charter salmon fishermen through federal grants to purchase vessels, gear, and licenses, such program affecting a reduction in fleet sizes and harvesting potential in a manner consistent with existing state law; and

(4) Maximizing the role of state and tribal governments, and their respective management entities, in the development, implementation, and operation of policies, programs, projects, or activities to be undertaken pursuant to such federal legislation.

BE IT RESOLVED, That copies of this Memorial be immediately transmitted to the Honorable Jimmy Carter, President of the United States, the Secretary of Commerce, the Secretary of Interior, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

Mr. SCHMITTEN. Let me also compliment the responsible testimony by the Governor to the committee. I think a review of this legislature's joint memorials and the Governor's testimony will show that both the executive and legislative branches hold very similar views with regard to the needs for Federal legislation.

These joint memorials from the Washington Legislature recognize the following:

One: There is a true need for Federal assistance to our State's commercial, charter and recreational fishing industries as a result of implementation of *U.S. vs. Washington*, or more commonly known as the *Boldt* decision.

Two: The citizens of the State have invested heavily in the management and enhancement of Washington salmon and steelhead resources. This includes the commitment made in 1977 to increase the supply of salmon by spending over \$31.5 million for new capital facilities. This

dollar amount does not include the State moneys necessary to run these new facilities.

These joint memorials ask that Congress enact legislation which will address four points:

One: Provide moneys for additional salmon and steelhead enhancement; two, assure that the benefits of enhancement accrue to Washington's commercial, recreational, and Indian fishermen; and three, provide more funding for the commercial and charter fishing vessel voluntary buy-back program; and four, maximize the role of the State and tribal governments in fisheries management.

With regards to enhancement, existing State, tribal and Federal salmon and steelhead enhancement programs should be supplemented by Federal assistance to insure a doubling of the available harvest for commercial and recreational fishermen adversely impacted by the *Boldt* decision. This will offset the reduced share in total harvest for the non-Indian fishery, and will more than assure meaningful treaty opportunities for Indian fishermen.

Perhaps the most important aspect of our memorials involves assurance that the benefits of enhancement shall accrue to our State's commercial, recreational, and Indian fishermen; not to other States or our Canadian neighbors to the north.

We in the legislature believe there is no sense in committing taxpayer dollars to assist our State's fishermen without reasonable assurances that the benefits will be shared equitably by the intended beneficiaries. The joint memorials emphasize the need to assure that the benefits of the proposed Federal program and existing programs accrue to those for whom they are intended.

With regards to a buy-back program, we believe that the primary purpose of the buy-back program is to offset economic dislocation caused by implementation of the treaties. In the past 6 years, the Washington legislature has imposed a moratorium on the issuance of commercial licenses and enacted other laws which have affected gear reduction in commercial and charter fleets. A significantly expanded voluntary buy-back program, when taken together with existing State laws, will assure a substantial reduction in these fleets without Government mandating such a program.

Our view of the administration's proposed legislation indicates that it may require the State of Washington to establish a program to summarily eliminate the bottom 5- or 3-percent producers in our commercial and charter fleets before we could obtain buy-back moneys. Were this to be required, as many as 50 percent of the fishermen in some fleets would be stripped of their fishing privilege.

I am here to tell the committee that such a program, if to be run by the State, would require State legislation and that I know of no legislators who would support such a measure. There is no support for such a program. The reasons are obvious.

Senator MAGNUSON. First of all, the buy-back provision of the bill is very fuzzy. It needs to be worked on. It merely states that the States should go ahead and do certain things, and that's a portion of the bill that would change.

It doesn't specifically mention voluntary buy backs, as most people seem to think.

Mr. SCHMITTEN. We concur with that. First, there is no conclusive evidence of what an ideal fleet size might be. Second, the State and tribes, and now hopefully the Federal Government are spending considerable moneys to expand the resource. With increased harvests, after the voluntary buy back and enhancement programs are in effect, it may not be necessary to reduce our fleets in such an arbitrary fashion. The legislature will not approve gear reduction unless it is clear that the State cannot adequately conserve the resource or deliver on the treaty right obligations.

At this time we have no information to compel such action. Third, our legal counsel believes that the type of program suggested by the administration is clearly in violation of our State's constitution and would fail a court challenge.

Senator MAGNUSON. Are you talking about a gear reduction?

Mr. SCHMITTEN. Yes, mandatory gear reduction.

If Congress requires that buy-back moneys are to be contingent on enactment of a nonvoluntary limited entry or license elimination program by the State legislature, then this is simply a statement on the part of the Congress that there will be no buy-back program. It would be a shame to eliminate badly needed economic relief and constructive gear reduction in our fisheries because of the imposition of a contingency that is impossible for us to meet.

On another matter, the joint memorials emphasize that the role of the State and tribal governments in developments affecting these resources must be maintained through any act of Congress. Existing local management processes are sufficient to assure the proper expenditure of Federal funds.

Senator MAGNUSON. Right at that point—the people at our May hearings took a look at our management situation, and they found that there were so many managements, so many managers that it wasn't cohesive at all. They thought that they should step in, and that's what happened. Unless we can simplify this management process I think we are seriously handicapping any bill we intend to pass. The local management processes you say are sufficient, they are too sufficient, there are too many of them, and that's the trouble. But the purpose of the management part of the bill is to encourage I would say, a more cohesive management effort.

When we had testimony here a few months ago on this bill, we found that some 32 people were involved in management of salmon. Of course that includes a lot of Indian tribes, and everything else, but you can't have much management unless you put this together. The Commissions and the Federal Government is just as bad, so his statement would be correct, if we could put together the management in some respects.

Mr. SCHMITTEN. I think the next sentence actually helps.

Federal oversight should be limited only to assure that funds are being expended in conformity with the intent of Congress. No expanded Federal role in the management or enhancement of our resources is necessary or acceptable to our legislature.

Overall, with regards to State matching funds for any proposed Federal assistance program, it is realistic to assume that no additional moneys are forthcoming from the legislature to mitigate the adverse impacts of implementation of Federal treaties.

Senator MAGNUSON. Now right there, I hope that some of you will agree that no additional moneys, when you use the term "additional," you mean over and above your regular program, don't you?

Suppose they weren't in that picture at all—wouldn't you be down here, for enhancement?

Mr. SCHMITTEN. We have \$33½ million on the table right now.

Senator MAGNUSON. So what you mean is, no additional moneys, when you use the term additional, you are meaning over and beyond the regular program? I wouldn't want the State to cease, the State to give up the program, so the Federal Government will handle it. All of us want you to continue your regular program as if there wasn't any—

Mr. MARTINIS. Senator, when the legislature, when the Department and the legislature together, put together an enhancement program, the Indian fisheries was a problem to the State of Washington, and we put that program together, with the thought and hopes that the Federal Government would come in and help us out, we were fully aware of the fisheries being transferred to an Indian fishery but we fully expected at that time that the Federal Government would step in and help us.

Mr. PETERSON. Well, this is a capital program and the maintenance of our fishery resources at the time we appropriated the money.

Senator MAGNUSON. The *Boldt* decision as such didn't affect the regular enhancement program as to the number of fish. It merely affected the allocation of fish.

Mr. MARTINIS. Senator, there were several—

Senator MAGNUSON. It affected the allocation of fish, which in turn, because of all this confusion, slowed up the enhancement program and everything else.

Mr. MARTINIS. Senator, one of the contingencies in the enhancement program to consider was the Indian fisheries, so the enhancement program was very aware and I repeat, we were hopeful that you would help us out with additional funds.

Senator MAGNUSON. Hope springs eternally—we are going to have a tough time with this bill, and our budget restraints, and the State is in the black, and you know that, don't you, and we are in the red?

Go ahead, I can't complain about every State that is in the black, that is why we are taking a closer look than usual.

Mr. SCHMITTEN. Our legislature funded what is already the most expansive salmon fisheries management and enhancement program in existence. We have taken steps since the *Boldt* decision to further expand our resources, as previously mentioned. We have more than met any obligations we may have to offset the impact of implementing the treaties. If Congress insists on the matching fund requirements contained in the administration's bill, it constitutes the effect of offering no assistance to the State. We cannot and should not be required to match supplemental Federal assistance with additional State moneys.

I would like to report to you, Mr. Chairman, that the Washington legislature too has sensed a significant change in the atmosphere affecting the State's important salmon and steelhead resources. Since the U.S. Supreme Court's decision this past summer, we have met with

a large number of fishermen interested in assuring improved cooperation among Indian and non-Indian fisheries managers and fishermen in the future. An example of this is legislation Representative Vrooman and I introduced to assure Indian participation in State enhancement planning on our salmon advisory council.

Senator MAGNUSON. Was there an advisory council on salmon?

Mr. MARTINIS. Senator, when the enhancement program was being put together, at one point it was virtually dead, and the usury groups walked away from it, there was a meeting in Olympia I met with them about 30-days after it cooled off and we put together an ad hoc committee to put the enhancement program back together again and get the usury group support. The legislature felt that a continuance of this group and with some encouragement from the department to advise and only advisory to the director we met and gave the director the opinion on the programs as they were presented to us. It is strictly in an advisory capacity.

Senator MAGNUSON. I wasn't familiar with that one.

Mr. SCHMITTEN. It was newly established in 1977 to have advice on the new enhancement program.

At recent hearings on this legislation, support for this concept was unanimous. It has since passed the house by a vote of 97-0. Additionally, we are aware of the increasing efforts of the department of fisheries to develop cooperative agreements for management and enhancement of the resource with a number of the treaty tribes.

Senator MAGNUSON. I think there seems to be a new agreement from the Nisquallys. I haven't read it. They want some Federal money, I know that.

Mr. SCHMITTEN. I see considerable interest and support for these activities within our legislature.

With regard to the question of steelhead, there is growing interest throughout the State in classifying this species as a national game fish. We can only offer that any comprehensive program addressing an Indian fishing rights settlement program should include some manner of steelhead settlement.

To conclude, Mr. Chairman, we again appreciate the opportunity to appear before the committee and to present to you these joint memorials from the Washington legislature. Now is the time for congressional action. The senate and house natural resources committees of our legislature will be happy to work with your committee as you see fit in the development of Federal legislation.

Thank you, Mr. Chairman.

Senator MAGNUSON. We are going to need a lot of help. And it might be well if you fellows could come back to Washington, and put some testimony on the State's participation when we get at that.

Mr. PETERSON. We would be happy to.

Mr. SCHMITTEN. I am sure we would all be happy to, sir.

Senator MAGNUSON. Speak for yourselves in this matter. I am worried about the time element in this; we aren't going to be in session a lot, it's just that year, you know. I think Mike will agree with me, that it will have a tougher time in the House than it will in the Senate. I am worried about the time limitations. We will get at it as soon as we can. We've already presented our budget for 1981, it is all in, it will have to come as a supplemental of some kind.

We might go at it easier. None of it is going to be expended in this coming year, so we might be able to get away with a supplemental with a certain portion of that for the 5-year period. But I am glad that you people have a better feel of this than I do, because we are back there so much. I think that there is significant change with the Indians and the non-Indians and all the people involved, just to try to work something out. There might be some temporary solution, so we are going after this bill. Fishing season starts in July.

MR. PETERSON. Indications are that the tribes are becoming much more cooperative and trying to resolve this enforcement and enhancement problem. I met recently with the Skagit Cooperative Group, and they are very receptive and cooperative between State and Federal Government. But as the Governor indicated, in our statement, it takes money to do it, they don't have it. We need some help and the tribes are cooperating.

Senator MAGNUSON. We give the Indians a little money for management, that's part of the Indian appropriation. Fisheries management, I know we gave them some and I know we gave some to the Tulalips.

MR. PETERSON. I am not so sure of all the tribes, I know the Skagits and am relatively well acquainted, now the Lummi's have been in the process in the fish farming business up there for a number of years.

Senator MAGNUSON. We have been very generous with our grant to the Lummi's, they started this fish farming early, sort of pioneers in it, as I remember, so there is still a chance for the Indians to come up with a management program. The Nisquallys want little enough to keep them moving.

MR. MARTINIS. I would like to make one last statement. Senator, we speak of the State being in the black, we feel we are fortunate. about that, but I would like to remind you, Mr. Chairman, that the enhancement program in Washington State is paid for and designed to be paid for by those user groups, the fees were increased and there is policy in the legislation that the revenues will be reviewed on an ongoing basis, to make sure that the user fees will keep pace with the cost of the Washington enhancement program.

Senator MAGNUSON. We thank you very much for coming.

MR. VROOMAN. I have a statement from House Speaker John Bagnariol.

Senator MAGNUSON. We'll just put it in the record.

MR. VROOMAN. This is from John Bagnariol, Democratic speaker for the Washington House of Representatives.

DEAR SENATOR MAGNUSON. On August 17, 1979 I was privileged to present a statement to your congressional committee regarding implementation of the U.S. Supreme Court's ruling on the *Boldt* Decision. The testimony was presented by Washington State Representative John Martinis and Mr. William Flack from our legislative staff.

I appreciate the opportunity to once again reiterate the major concerns that were presented in our testimony on August 17, 1979.

My first concern is that the administration recognize that the Washington State Legislature has studied the decision of the U.S. Supreme Court. We are ready, as citizens of the United States and the State of Washington to honor the High Court's decision and to accept our role and responsibility in the implementation of its decision.

The first major step in order to meet the High Court's mandate, was accomplished in October of 1979, when Washington State Supreme Court reversed its prior decisions which placed Washington State squarely in conflict with the ruling of Federal District Court Judge, Judge Boldt.

The State Court has now vested management and allocation authority with the Washington State Department of Fisheries and the Department is implementing management and allocation programs to meet the Court's orders.

However, it is my great concern, that the Administration has not adequately assessed the full extent of the economic impact of federal decisions on Washington with respect to the programs we are now required to implement.

This brings me to my second major concern; the cost of implementing a program that will provide a more equitable balance among various Indian/non-Indian users groups in order that an equal opportunity fishery be established.

Economic relief for fishermen who wish to retire from the fleet is absolutely essential. This economic relief and the needed re-allocation of the fishing fleet's capital assets (vessels and gear) should be accomplished through a buy-back program. It will be a costly program, but one that is absolutely essential if equity among user groups is to prevail, conservation and escapement goals are to be met, and the federal mandate is to be fulfilled.

The Administration has recommended federal outlays of \$40 million dollars; one, for purchase of non-Indian vessels and licenses to reduce fishing effort and permanently retire non-treaty licenses; and two, to fund Indian fishery loans for the treaty fishermen.

The \$25 million recommended by the administration for vessel and license buy-back represents at best, approximately one-half the estimated total cost of meeting the program goals.

Therefore, I am recommending that the Congress consider authorization of a federal outlay totalling \$50 million for the buy-back program and \$25 million for the Indian fishery loans. I do not believe co-funding is a reasonable alternative.

In addition I would respectfully ask that the Congress specify that a major portion of the buy-back funds be targeted at the off-shore commercial salmon fishery (trollers) in order to reduce effort in the mixed stock ocean areas off the Washington coast. I believe this would assist the state's effort to maintain, one, its conservation and enhancement effort for specific runs or stocks of salmon; and two, to insure adequate returns to Washington's unique inside fishery (both treaty and non-treaty fishermen) that are characteristic of the Columbia River, the Straits of Juan de Fuca, Admiralty Inlet, Puget Sound and coastal bays such as Grays Harbor.

My third major concern is the level of funding recommended by the Administration for salmon enhancement.

We are grateful that the Carter Administration has made a commitment to Washington State to assist us.

However, we do not presume that the Administration's proposal is just a starting point and that we can continue to work with you, our Congressional delegation, and the administration to arrive at a more reasonable and adequate level of federal financial participation.

I would like to note that the Presidential Task Force recommended a combined total federal outlay of \$208 million, \$121.6 million of which was recommended for enhancement over a five year period.

In 1979, the State of Washington authorized and committed in excess of \$33 million in State funds to meet our enhancement goals. This is in addition to the approximately \$100 million the state has spent to date on enhancement, operations, and maintenance through various state agencies. We hope the Congress will consider these funds as state matching money, a requirement suggested by Secretary of Interior Andrus, in the Administration's proposal presented in Seattle on August 16, 1979.

We would hope, Senator, that all citizens with an expressed interest in the salmon fishery will now focus on the most critical question before us, that is: What is the best way to implement the Court's decision in order to guarantee perpetuation and enhancement of a renewable natural resource of major economic, social and environmental significance to the Pacific Northwest?

We believe the people of Washington, and particularly the commercial and sports fisheries, treaty and non-treaty alike, have accepted the federal mandate and our responsibilities in good faith.

We now call on the federal government to work with us, in good faith, and to provide a level of federal financial participation that will enable us to adequately carry out the decision of the Supreme Court.

Very truly yours,

JOHN BAGNARIOL,
Democratic Speaker, Washington State House of Representatives.

Senator MAGNUSON. Thank you very much.

Mr. VROOMAN. Thank you, sir.

Senator MAGNUSON. Now, as long as we are on legislators, is Mr. Janovich—

STATEMENT OF HON. JOHN JANOVICH, WASHINGTON STATE REPRESENTATIVE

Mr. JANOVICH. Your Honor, thank you very much. Thank you for letting me come here this afternoon and present a few views. I don't have a written piece of paper to be speaking from, but I will just talk right off the top of my head. You've heard from all the people in the higher places, you have discussed figures and facts, but personally I don't feel that the amount of money we are getting is near as important as what we do with it, and how we handle it. You can give us 10 times that amount and if it is not used properly it's all for nothing.

I think—well, I was quite upset in reading your bill that the Columbia River was excluded from some of this funding.

Senator MAGNUSON. Now don't say "my bill," it isn't my bill.

Mr. JANOVICH. It wasn't Mr. Cannon's bill.

Senator MAGNUSON. It wasn't Mr. Cannon's bill.

Mr. JANOVICH. Well, whoever.

Senator MAGNUSON. It is an administration bill proposed by the Secretary of the Interior.

Representative LOWRY. It certainly wasn't ours, after listening to the other testimony.

Mr. JANOVICH. I have spent some time in the Yakima River with the biologist and the Yakima Tribe, and I think it would be downright disgraceful if we didn't consider that area, it's got some of the finest spawning grounds in the State, and really involves a lot of territory and an awful lot of people, both commercially and sports.

As far as the Nisquallys putting in for \$16 million I am sure that as long as the money is forthcoming we will have a long line of people with outstretched hands, but I don't think that we should make any deals, first we should get the money and also sit down at the table and decide what is the best place to put these funds. I am sure every group, or user group in this State can come up with an ideal—

Senator MAGNUSON. We shouldn't pick them out individually, we should have an overall category and then sit down and determine.

Mr. JANOVICH. Further, I should like to say that if some funds are forthcoming I would like to see at least \$5 million of these funds go to the counties so that they can be distributed down at a very low, local level, to take advantage of all volunteers that are willing to work, free of charge, and free of the bureaucracy that we run into when we deal with the Federal or State Governments.

I realize that there is bureaucracy at the lower level of government, too, but we do have a little more chance to put the finger on these people, if they don't act properly. In regard to buyback, I am not overly enthused with buyback because if you buy out five people and you've got five left, with very efficient gear you can still catch all the fish. I would submit to you that we should take some of the so-called buyback money and put it into good sound enhancement practices at a very low

level, not high up, get the money down to where it is going to do some good. There are people down at the fisherman level and the sports fishing level, who are highly intelligent and have very good ideas. I think they could produce fish cheaper and more efficiently than the State, with the proper guidance.

I guess that is about all the comments I have to make.

Thank you very much.

Representative LOWRY. You know so much about fishermen, you've been a big help on this all along, and we are going to be asking for a lot of that help, as we try to develop this bill.

Mr. JANOVICH. I will be there any time to help and I have a letter from one of the representatives to leave with you.

Thank you very much.

Senator MAGNUSON. Dr. Bevan?

Mr. JOHNSON. My name is Chris Johnson, and I am a research analyst for the house Republican caucus, and Speaker Duane Berentson has asked me to present his brief testimony, if I could do that, I would like to get back, I have a ride going back to Olympia, if I can do that.

Senator MAGNUSON. You can put your statement in the record.

[The statement follows:]

STATEMENT OF DUANE BERENTSON, REPUBLICAN CO-SPEAKER OF THE WASHINGTON STATE HOUSE OF REPRESENTATIVES

My name is Duane Berentson and I am Republican Co-Speaker of the Washington State House of Representatives.

Your Committee has been presented with substantial testimony relating to the legal, historical, and technical aspects of problems affecting Washington State's anadromous fisheries. Therefore, I would like to take a few minutes of your time to concentrate on a different, but nonetheless important, perspective.

I was born and reared in Anacortes, a community in Northwest Washington, located in the 40th Legislative District, which I represent. For approximately half a century, I have been intimately involved with the fishing industry and with those who make their livelihood from fishing. Many of my friends' fathers and many of my neighbors have been commercial fishermen. I, too, have worked on fishing vessels and so have others in my family. Many of the constituents whom I have represented for nearly 18 years make all, or a substantial portion, of their living from fishing.

As someone who has been involved in government and in the legislative process for many years, I realize that, all too often, important issues are viewed on the basis of cold facts and figures. We have a tendency to ignore the human factor in our problem-solving equations. However, as all of us here recognize, the controversy that has raged over fisheries issues has been strongly laced with human emotions: frustration, anger, fear, and the like.

In some ways, this outpouring of emotion has been counterproductive to finding solutions to the problems that our fisheries and the fishing industry face. But it has had the beneficial effect of constantly reminding us that people are very much involved in these issues.

Today, I ask that you take note of, and pay special attention to, the human factor. I ask that you, as responsible public officials, regard the tremendous impact this controversy has had on the lives of thousands of Washington citizens.

Long-held traditions of entire families and communities have been subjected to trauma. Links between the past and the future have been severely weakened and, in some cases, broken. Not only an entire industry, but an entire way of life for many people is threatened.

Nothing that the Legislature, the Congress, nor anyone else can do will ever restore things to what they once were. But, with a *substantial* effort, we can begin the healing process and minimize the scars that will be left.

I strongly urge this Committee and the Congress to heed the petition of the Washington State Legislature, contained in House Joint Memorial 35 and Senate

Joint Memorial 113, supported by the testimony presented today by Representative Schmitt and others. The four-point program outlined in these memorials is the very least the federal government can invest in restoration and stabilization of Washington's fisheries industry.

Thank you.

Senator MAGNUSON. Dr. Bevan?

STATEMENT OF DONALD E. BEVAN, PROFESSOR OF FISHERIES AT THE UNIVERSITY OF WASHINGTON

Dr. BEVAN. I am Donald E. Bevan, professor of fisheries at the University of Washington. I speak today as a private citizen, after listening to Gordon Sandison's remarks about council members and the Governor's, I perhaps ought to amplify a little bit. I am not speaking as a council member, or a member of the scientific committee, or any other official contacts that I have. I would like to say that the State has been very good to me, they give me 1 month every year without pay to do what I want to do, and this is one of those days, so I don't even want to be considered as a State employee today. I do speak as a private citizen with a deep interest and concern for the salmon resources of the Pacific Northwest, and the people who depend on that resource for their subsistence.

The stated purposes of the bill are laudable. Everyone concerned should support the bill's declared purposes. The citizens of the Northwest wish to solve the salmon fishing problems and they need Federal help in order to do so. My opinions of the proposed legislation have been molded in part from my experience of over 35 years as a student of fishery science and as an active participant in salmon management. It is my opinion that the proposed legislation will not fulfill its purposes since it is deficient in at least three important areas. First, there is no plan for coordinated management. Second, the need for fishing effort limits on all parts of the fishery is not addressed, and third, the program lacks sufficient attention to research and enhancement evaluation.

With regard to coordinated management I fully support the recommendations of the Lokken committee which will be presented to you tomorrow. The recommendation calls for a requirement that all management entities prepare a management plan similar to those required by the regional management councils under the Fishery Conservation and Management Act. Further, the management entities will be required to consult with one another and attempt to develop a compatible overall plan. In the event that agreement cannot be reached arbitration would be attempted. The judicial system would provide a solution if arbitration failed. Coordinated management was recognized as essential by almost all of those who testified before you last May. Coordinated management must be a part of your legislation if it is to solve our salmon problems.

You have indicated the importance of effort limitation by including a buyback program. It is my opinion that no long-term lasting benefits will be accomplished if the program does not include a means to insure a ceiling on the amount of fishing effort exerted by the treaty

fishermen. Fishing effort limitation is not only an economic measure. It is important for conservation and effective management. There is no difference between the economic forces which brought too much gear into the nontreaty fishery and those forces which will result in future overcapitalization in the treaty fleet, if control is not developed. I recognize that the treaty fishery may have different goals for optimizing the returns from the resource and I understand the need for additional job opportunities. However, I believe that goals other than maximum economic efficiency can be accomplished in a carefully designed effort limitation scheme. I suggest that the legislation require the treaty fishermen to design a system which insures that treaty fishing effort will be controlled so that Indian fishermen will not suffer in the future from overcapitalization of fishing gear.

Last, but not unimportant, is the need to provide for research and for evaluation of the enhancement program. I can say with certainty that we can provide more salmon by habitat improvement and by adding new units to our artificial propagation facilities. It is less certain that enhancement will be efficient and that the results will have a minimal effect upon existing stocks. To assure that the enhancement program is well designed and it is carried out with minimal impact upon existing stock, will require research and evaluation. A statement addressing this subject has been prepared by some of my colleagues at the college of fisheries. I support their statement, and include it with my statement at their request.

I won't go into detail now, but I am submitting a technical paper indicating what work and research they think should be done.

Thank you, Mr. Chairman, for the opportunity to testify before you. If there are any questions I welcome the opportunity to try to answer them.

Senator MAGNUSON. Thank you for your excellent testimony.

We agree with you on the management and I am looking forward to Mr. Lokken's committee.

Dr. BEVAN. Mr. Lokken will be here tomorrow.

Senator MAGNUSON. We do need some coordinated management. The question in my mind, on the buyback, and the other two suggestions you make, are very good, thank you very much.

Dr. BEVAN. Thank you, sir.

Senator MAGNUSON. All right, Mr. Jack Donaldson. Is he here? Director of the Oregon Department of Fish and Game. Good afternoon, sir.

STATEMENT OF JACK DONALDSON, DIRECTOR, OREGON'S DEPARTMENT OF FISH AND WILDLIFE

Mr. DONALDSON. Good afternoon, Mr. Chairman, I am Jack Donaldson, director of Oregon's Department of Fish and Wildlife. I am not going to read from my statement, you have had a long day today, and I am sure you will appreciate that.

I am so excited about what is going on in the Columbia River today. I have no trouble at all in addressing the issues, the Columbia River, along with Puget Sound, is probably the world's most complex fisheries management concern in a single area.

In the Columbia River we have all the species of salmon, specific salmon, and furthermore we have several, and a number of varieties, the Chinook salmon, for example, there's the spring variety and there's the summer variety, there's a fall variety and two varieties of the fall fish. We have all of those fish at some time or another, either going up or going down that river. If you are very familiar with the Federal projects that have been developed on the system for hydroelectric irrigation, flood control and navigation, and sir, the single problem of the Columbia River is the matter of flow. We do not have the water, and if we don't have the water, we won't have the fish.

The confrontation between hydro needs and agricultural needs is the battle of the Columbia River, and I have great concerns that fish may be squashed in that particular confrontation. The Northwest energy bill allows us to amend, or to include, fish rights for the Columbia River, and they are very, very hopeful that that will be developed in the Congress and forwarded to us to assist us and to be at the table. We have user conflicts. We have all the traditional fisheries, recreation, and commercial, and we have the *Belloni* decision, which states up to 50 percent of the catch is due to the 5 treaty tribes in the Columbia River, and we have developed an agreement on the river in the *Belloni* clause that in 5 years we will turn the management over an allocation scheme. It has worked reasonably well. None of us are happy because there have not been enough fish, and those fish runs are dwindling yearly. In fact, Senator, you recognize already in your hearings in Washington recently that the stocks in the Columbia River are near the endangered state, and in fact we have a status report for endangered species act, and if that is developed that will preclude fishing, not only in the Columbia River, but off the coast of Oregon and Washington, and Alaska, alike, because the catch of incidentally caught fish of those endangered species is very real. Let us hope that we don't get to that decision, when we are that precarious in the Columbia River today.

I'd also like to point out for you in Washington, that you catch almost half the fish that come out of the Columbia River along your Washington coast, that is the fall runs, and they make up 70 percent of your coastal catch out of the Columbia River, so if you do have a stake in that river's future.

I also would like to point out that where we do have mitigation funds to place the fish in the river, they are building other dams, we have vast funds coming in from the lower Snake development for projects in the State of Washington, and I am told that those funds, which once numbered in the \$50 millions are now accelerated up into the \$100's of millions to accomplish that program. And be eaten alive, of course, of our common problem of inflation. However, we met with the Marine Fisheries people this morning, the Director and his assistants, and some of the financial people of that organization, in which we reported to them that we are almost one-half million dollars short in this year's fish and cultural program in the Columbia River in the State of Oregon, alone. I told them in the State of Washington also mitigated funds are some \$300,000 short. It's the problem of the system we are in where you can't plan for inflation, and the sale of surplus carcasses. The problem is there on the list, we have two solutions.

One, to get additional funds. Two, to close hatcheries. It is just that simple. We are hoping that we can work these problems out. Now I am not going to set here and ring the death knell of the Columbia, whatever, I taught for 9 years in the Oregon State Department of Fisheries, and I used the Columbia River as a case history of serious fisheries problems for students to envision. Just about everything that could go into the demise of the fishery. I was always hopeful and optimistic, and I still am. We do need some help. It is a very big Federal problem, and the States have been very helpful on the development on the river and the treaty issues. We have some things we can do and my staff has been preparing the Columbia River restoration approach, in coordination with the Columbia River Fisheries Council, you heard from our director this morning, Mr. Holubetz, and with the fisheries management council also looking at the salmon, a comprehensive plan, essentially gravel to gravel type management, so the Columbia River does have a comprehensive approach involved.

We, in Oregon, are taking the most active role at the present time. Let me show you some of the things we would like to do.

This is in the *Belloni* case area, we are talking about *United States v. Oregon and Washington*, that is the river in Oregon and Washington, in this particular case, I am sorry to say, that the State of Idaho, not being in that case, would not be included. We have been trying to recognize the needs of the State of Idaho in an allocation system, we are presently in a Supreme Court suit with that State, we hope to settle out of court, and allow them a reasonable and fair portion of what fish can get through those projects, limited as it may be.

We would like to increase the survival and the abundance of upriver Bright Fall chinook that fish that has such a fine return, primarily a commercial fish in the upper river, and the Indians as well as non-Indians, and we could do this by some enhancement programs along the Oregon and Washington shore. We would share this with the State of Washington obviously. We would put in rearing ponds, release recaptured type facilities, not massive hatcheries, not big developments at great costs, we have the source of eggs available in some of our existing hatcheries we would build these along the shore, would hopefully be able to add in excess of some 50,000 new adult upriver Bright Fall chinooks, for treaty and nontreaty fisheries. We would like to do some additional enhancement below the projects, we do not have to suffer the loss of the dams in both Oregon and Washington, and Oregon, particularly the Willamette River we would like to add some 20,000 Bright Spring chinooks, and one of the more exciting things, but not as impressive, is habitat improvement, going in and restoring habitats, just simple grazing of cows along the stream can destroy miles and miles of habitat. We can enter projects to restore those habitats, and what is the most amazing for a fishery agency to propose building dams to store water for fish, for fish to rear, and for fish to swim in. And we are very excited about going to the headwaters of some of our streams and doing this.

We have some needs in the oceans as well. The timing of distribution of survival fish in the ocean. We need to know more. We are upset also about the 50 percent matching aspect of the States. We are—the majority of funds are dedicated that come from license, taxes, and this

would be very difficult for us to do. But the buy-back we do not need in the Columbia River at the time. We would like to include it as a mention into that as sometime it may be necessary. At the present time we are under a moratorium on licensing in the Columbia River for gillnetters and we do not see a buy-back program at this time.

And in conclusion I would like to thank you, sir, for caring about the fish and the administration for proposing this legislation. You are included in the Columbia River and it is good business. Recent studies have shown that the benefit of the cost ratio at least 3 to 1, can be accrued from enhancement in the Columbia River.

The State of Oregon is ready and willing to assist you and the staff of whoever is needed to work with and incorporate the best programs if this is the desire.

I thank you for this opportunity; if you have any questions I would be very happy to answer them.

Senator MAGNUSON. What bothers me, and I appreciate the plight of the Columbia River. The one underlying justification for getting the money would be that it is caused by treaty rights. How many treaty rights are involved in the Columbia River?

Mr. DONALDSON. Well, the *Belloni* decision did allow 50 percent to the treaty tribes, which we have not been able to meet their historic catches because of the problems that are altogether treaty related, but are federally related in the Columbia River, so that the treaty Indians certainly have not gotten their share nor have the other fisheries, if we were to close down the ocean entirely, we could not have met those demands.

Senator MAGNUSON. It has an indirect bearing. The treaty problem is not as great on the Columbia as it is in Puget Sound.

Mr. DONALDSON. I think I can certainly submit to that; I am sure of those problems in the Columbia.

Senator MAGNUSON. That is a big difference. Any questions?

Representative LOWRY. No. Very good testimony, thank you very much.

Senator MAGNUSON. Very good testimony. Thank you very much.
[The statement follows:]

STATEMENT OF JOHN DONALDSON, DIRECTOR, OREGON DEPARTMENT
OF FISH AND WILDLIFE

Mr. Chairman, my name is John Donaldson. I am director of the Oregon Department of Fish and Wildlife. First, let me thank you for the efforts of the Administration and this Committee to address the problems associated with the northwest salmon and steelhead resources. The Department supports the intent of S. 2163; however, by including the Columbia River this legislation will provide even greater opportunity to enhance the northwest fisheries and reduce the user conflicts that have resulted from depressed runs and court-ordered allocations.

Historically, the Columbia River was one of the most important anadromous fish streams on the Pacific Coast. Although still a major producer of salmon and steelhead, the construction of dams ranging from small irrigation diversions to massive hydroelectric storage projects has greatly reduced its fish production potential. Downstream migrants of Snake River origin have suffered losses of over 95% in passing the eight dams blocking their route to the ocean. Specifically, these losses can be attributed to direct mortalities in passing through turbines, residualism in reservoirs formed by dams, and to predators taking advantage of the changed environment.

Other factors have contributed to the decline of the Columbia River as the greatest producer of salmon in the world. Losses of adults striving to reach upstream spawning areas have exceeded 20 percent at some main stem dams. Much of the original production habitat has been blocked to access, and part of the remaining stream areas have been degraded by water withdrawals, overgrazing, and various other land use practices. The result has been the increased restriction and even the elimination of many of the Columbia River's extensive and diverse sport and commercial fisheries.

In 1975 the Federal District Court, presided over by Judge Robert C. Belloni ruled that the Columbia River treaty Indian tribes were entitled to up to 50 percent of the harvest by the states of Washington and Oregon of salmon and steelhead runs destined to enter the treaty fishing area above Bonneville Dam. The harvest included fish taken in the ocean as well as in the Columbia River and its tributaries. The court later adopted a 5-year agreement between the states and the treaty tribes which provided workable formulas for sharing the resource entering the Columbia River. However, all parties to the agreement are extremely dissatisfied at present, primarily as a result of depressed fish runs which provide for inadequate or no harvest potential.

A factor complicating the allocation of fish available for harvest in the Columbia River is the influence of the ocean fisheries. Because the fisheries off the Washington coast take 40-45% of the total harvest of Columbia River fall chinook and the total catch of chinook salmon off Washington is comprised of at least 70 percent of the fish originating from the Columbia River, it has been necessary for the Pacific Fishery Management Council to recommend severe restrictions to these fisheries in an attempt to comply with the intent of Judge Belloni's order.

All of the allocation problems involved are greatly magnified by the depleted condition of the Columbia River salmon runs. These problems could be greatly reduced by enhancing stocks of Columbia River salmon in specific areas. A comprehensive plan for the Columbia River will soon be available to identify specific enhancement projects, thus the following examples are only conceptual at this time, but we believe they are both practical and feasible.

For example, one concept recognizes that late spawning fall chinook of upper Columbia origin are of excellent flesh quality and highly prized by both sport and commercial fishermen. These fish also contribute well to offshore fisheries. The majority of this stock spawns in the Hanford area of the upper Columbia. They formerly spawned in the reach of the river now inundated by the pool behind John Day Dam. Test wells indicate suitable and abundant well water is available on the Oregon shore of the upper John Day pool, and suitable sites exist for the construction of a variety of artificial propagation systems. If facilities were constructed that would return 50,000 of these fish to the Columbia River, Indians and non-Indians would both benefit. If enough of this stock could be raised in these sidestream units in conjunction with other mid-Columbia River artificial propagation facilities, it is conceivable that a long-lasting allocation agreement could be developed which could greatly reduce present user conflicts.

Another example is the improvement of spring and fall chinook runs below Bonneville Dam which could benefit both lower river sport and commercial fisheries. This kind of enhancement project would serve to offset the loss of harvestable fish to these lower river areas which have been allocated to the Columbia River treaty tribes by Judge Belloni's order. Enhancement of Willamette River spring chinook could be achieved by constructing a new adult holding pond to replace a disease-plagued location below Dexter Dam. The greater survival of returning adults would provide sufficient eggs to utilize the rearing potential of existing reservoirs which are presently understocked. This holding pond facility could also be used in conjunction with the construction of rearing ponds for spring chinook. Either these ponds or the activation of potential fall chinook rearing ponds in the Willamette basin could increase production of these salmon stocks by 20,000 adults. This type of project would substantially assist in restoring harvest levels to those enjoyed less than 10 years ago and would benefit offshore fisheries as well.

Other enhancement projects are also feasible. Fencing of overgrazed land has demonstrated a remarkable recovery of fish habitat and stream flows. Storage projects in the upper reaches of selected streams can provide high benefits to natural production areas. Off-channel rearing ponds can be constructed to in-

crease the natural production of streams. Although we have not settled on the specific areas as yet, this type of enhancement can be applied anywhere within the Columbia Basin.

We should not focus all our attention within the freshwater phase of the Columbia River salmon. We have major concerns in the ocean. Recent studies have shown a strong relationship between wind-generated nearshore production in the spring and the survival and growth of emigrating salmon smolt. Knowing more about the location and timing of these events will add significantly to improving management techniques. Funding should be extended for investigation into the nearocean area used by Columbia River juvenile salmon.

An important point that needs to be emphasized is that the fish management agencies through the Columbia River Fisheries Council are currently developing a comprehensive plan that will identify enhancement projects in the Columbia River system. This plan will not only detail specific projects that can be implemented soon but the plan will also assure that desired coordination occurs between all of the parties involved. A precise dollar amount for the Columbia River enhancement program is still being worked out. Our judgment is that at least \$30 million is required to implement and operate a program that will begin to restore the river's once great salmon and steelhead runs.

We strongly recommend that the provision which requires 50 percent state match money be removed. Oregon fish management funds are limited to user fees and a small general fund appropriation. These revenue sources are not now adequate for current statewide fisheries programs nor do we see any change in this gloomy revenue picture. The enhancement objectives of this legislation could not be realized in Oregon—if the 50 percent state match requirement is retained.

Title III, the commercial fishing fleet adjustment provision, should be amended to include participation by the State of Oregon. Although the State has not enacted a fishing vessel buy back program at this time, we believe that any program enacted in the future will require federal assistance to effectively reduce the level of fishing effort.

In conclusion, S. 2163 in conjunction with strong fisheries provisions now under consideration in the Pacific Northwest Energy Planning legislation are positive efforts by Congress to address the serious needs of the region's salmon and steelhead resources. We look forward to working with you and members of the Committee's staff in the preparation and implementation of this legislative proposal.

Senator MAGNUSON. All right, you all have been very patient today, and we will recess until 10 o'clock tomorrow.

Thank you all.

[Whereupon the hearing recessed at 4:35 p.m.]

WASHINGTON STATE'S SALMON AND STEELHEAD RESOURCES

TUESDAY, FEBRUARY 12, 1980

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Seattle, Wash.

The committee met at 10 a.m., in room 815, U.S. courthouse; Hon. Warren G. Magnuson presiding.

Senator MAGNUSON. The committee will come to order, and welcome the assistance of Congressman Joel Pritchard. We have a long list of witnesses today so we want to proceed as quickly as possible, and I hope the witnesses, as I said yesterday, will direct their testimony to the pending legislation, and not agitate the problems, because we all know the problems. We are looking for a solution, so we will call upon Paul Anderson, of the Puget Sound Purse Seiners Association.

OPENING STATEMENT BY REPRESENTATIVE PRITCHARD

Representative PRITCHARD. I would like to compliment the chairman and his staff on the quality and timeliness of these hearings. We now have the administration bill which has been introduced by request in both the House and the Senate, and a commitment to some level of funding by OMB. This indicates considerable progress, but we still have to decide how to improve the administration bill, and we must try to move this legislation as soon as possible. If we do not act fairly quickly on this bill, we can get caught in the rush of legislation near the end of the 96th Congress. That is why these hearings are critical in their importance, why we would like all of your views on this legislation as soon as possible.

From my review of yesterday's testimony there appears to be some consensus between the States and tribes as to how this bill should be amended. It is becoming obvious that there are several issues which remain to be resolved including the following:

One, the boundaries of the area to be included in the legislation, and two, whether gear reduction should be completely voluntary, and three, the funding levels for each program area, and the degree of State matching required.

Also research and coordination, enhancement, construction and maintenance, and habitat improvement, a buy-back program for non-Indians to reduce the existing levels of fishing gear, and finally an Indian gear program in the form of loans.

I have several questions about each of these areas and I am anxious to hear your views on these and other issues, which we feel need further discussion.

Thank you, Mr. Chairman.

Senator MAGNUSON. Thank you. All right, since Paul has to go to another meeting, I am calling him first.

Next, we are going to hear from Harold Lokken.
Go ahead, Paul.

**STATEMENT OF PAUL ANDERSON, EXECUTIVE MANAGER, PURSE
SEINE VESSEL OWNERS ASSOCIATION**

Mr. ANDERSON. Thank you very much for calling me at this time. I most appreciate it.

Good morning, Mr. Chairman, Senator Magnuson, and Congressman Pritchard.

The association represents 200 purse seine owners and operators who earn their livelihood by fishing for salmon in Washington and Alaska. We very much appreciate the opportunity to testify before you today on Senate bill 2163.

It is no secret to you that the Federal court interpretation of treaty Indian fishing rights has left the Washington commercial salmon fishing industry in a constant state of turmoil. Since the decision was handed down February 1974 we have asked the courts and Congress for relief from the decision. We are here again today requesting you and your committee's help in moving such legislation through Congress.

S. 2163 goes a long way in attempting to resolve the controversy. It does not modify the 50 percent salmon allocation as upheld by the courts, but, we do not expect Congress to modify the Supreme Court decision. None the less, with modifications, the enhancement and commercial fishing fleet adjustment proposals as outlined in the legislation will help alleviate many of our problems.

I would like at this point to go through the proposed legislation section by section and offer our comments and suggested changes.

Page 2, line 18, we would like to see another goal added to section 1. The language could read as follows:

"(3) provide the funds necessary to double the size of the salmon harvest."

Throughout our dealings with the Northwest Fisheries task force established by the Carter administration we have been told that one of the ways to resolve the controversy is to provide more fish to all the fishermen to compensate for the 50-percent allocation to the treaty tribes. This goal is achievable given the water and land resources and the potential of raising fish within the State of Washington.

Senator MAGNUSON. Let's take this step by step. Section 1, you say that you want to provide funds necessary to double the size of the salmon. That would be in subsection two, which we say "improve the quality of maintaining the opportunities for salmon and steelhead and recreational fishing" and "to provide funds necessary to double the size of the salmon harvest".

Mr. ANDERSON. Yes, and the next comment would be on page 3, line 8.

Insert the word "salmon" between commercial and fishing. We do not think it would be appropriate to establish a commercial fishing fleet adjustment program to include participants other than salmon

fishermen. We would not like to see cannery tenders or king crab vessels participate in the program.

Senator MAGNUSON. Do you think that the proposed legislation implies that king crab vessels and cannery tenders would participate?

Mr. ANDERSON. It just wasn't quite clear.

Now on page 3, line 16, what is the definition of the word "projection" as it is used in this paragraph?

We would think that the term "enhancement" should refer to specific projects to increase stock size.

"Enhancement" if taken literally as it is defined in section 6 could mean management measures taken to increase escapement. We would not support the term "enhancement" if it included management measures.

Page 3, line 20, the term "escapement" is not used elsewhere in the legislation. We wonder then why it is specifically defined?

Senator MAGNUSON. In most cases I think it would be well to point out that it is often difficult to make definitions. For example say Congress takes a look at this bill, and then enacts the legislation. They would make a report, then define what they mean in the report by escapement. So it is difficult to define legislation.

Mr. ANDERSON. OK. Now on page 5, line 1, we hope that the Secretary of Commerce will be given the authority to deal with the comprehensive enhancement plan instead of the Department of Interior. As you know the Department of Interior has taken an adversary role on behalf of the treaty Indians. We think a more objective agency should be involved in the enhancement planning.

Senator MAGNUSON. That is a common complaint.

Mr. ANDERSON. Page 5, line 19, the Secretary of Interior should not be allowed to give Indian tribes fishing rights beyond what was originally established in the Federal District Court and upheld by the U.S. Supreme Court.

Page 5, line 23, the Secretary should not be authorized to promote, * * * coordinated management of the salmon and steelhead resources, unless the specific goals of the management promotion are defined within this legislation. They are not. Hence, we suggest the Secretary should not be given such authority.

We are concerned about removing the authority from the State to either the Secretary of Commerce or the Interior.

Page 6, line 23, the plan developed by the State and Northwest Indian Fisheries Commission, and approved by the Secretary, should be a comprehensive enhancement plan, as opposed to merely a comprehensive plan as suggested in the legislation. We want to insure that there be as little Federal involvement in the management system as possible, and that the State and the tribes retain their existing management authority.

Senator MAGNUSON. I think I speak for Congressman Pritchard and myself, when I said that the Federal Government wants to keep as much out of this as they can. I think you put it well, as little Federal involvement as possible.

Mr. ANDERSON. I am glad to hear that.

Page 7, line 21, this is one of the most controversial paragraphs in this proposed legislation. I am sure that you are aware of the controversy surrounding the Endangered Species Act as it relates to

salmon. For effective management and harvest of the resource certain stocks of salmon have been and will continue to be sacrificed. If all existing stocks of salmon and steelhead must be protected, as it so states in the legislation, the commercial fishery will be restricted to "terminal" fishing areas. The fish that we catch in these areas, near hatcheries is of poor quality and not suitable to market. The State and the tribes must be allowed the management flexibility to provide for the optimum yield of the salmon fishery resource. Consequently, we encourage the elimination of paragraph 2 on page 7.

Page 8, line 1, the same rationale applied to this paragraph. In conjunction with the definition of "stock" as established on page 5, the term "increase survival" will stop all salmon fisheries in the State. Taken literally, the best way to increase survival is to eliminate all fisheries. We know that is not the intent of the proposed legislation.

Page 10, line 10, this paragraph refers to the estimation of future operation and maintenance costs for the proposed enhancement projects. The draft calls for estimation of these costs for a period of 7 years after commencement of the project. We can see no reason for a specific time limitation on this estimation. It should include operation and maintenance estimation costs for the life of the project.

Senator MAGNUSON. On that we have a problem. We start with the basic premise that one Congress can't bind another, so most authorizations will run for 2 years. You don't know what the other Congress is going to do. You have to have some terminal date where you can take a look at what you have done, and give that Congress 7 years from now, a chance to look at that.

Mr. ANDERSON. What I was referring to was the estimation on what the operation maintenance costs should be, not a commitment to future Congresses to do this, just so we know what we are dealing with.

Page 11, line 16, this subsection limits the Federal funding share of the enhancement projects to 50 percent. As other speakers have testified before this hearing, the citizens of the State of Washington have more than paid their share toward resolution of this controversy. There is a considerable amount of money allocated each biennium by the Washington State Legislature to provide for an efficient use of the resource by non-Indian as well as treaty Indian fishermen. Any requirement for increased State participation would not be fair.

Senator MAGNUSON. Now, yesterday I expressed the opinion as to this argument that the State should not have to pay more than their fair share. But the State wouldn't consider the Federal funding if the legislation is passed. The Federal contribution is going to eliminate the State's participation.

In other words the State should go ahead with their regular program and that the bill, whatever it would do, would be coordinating and supplemental. I hope the State legislature doesn't think that this is going to be a substitute for their normal enhancement plans.

Mr. ANDERSON. We will now comment on the commercial fishing fleet adjustment program. Aside from increasing the number of fish available for harvest, there must be a program to effectively reduce the number of commercial fishing vessels. This will allow a higher per vessel harvest so that a viable industry will be maintained. The commercial fishing fleet adjustment program, as proposed in Senate bill

2163 requires minor modifications. With these modifications it should accomplish its goals. We will now comment on specific parts of the proposed legislation.

Page 13, line 11, as we have stated in previous sections it is not fair that the State be required to cofund the proposed fleet adjustment program. This is of great concern to us since we are afraid that if the State was required to cofund the program, either there would be no program or the existing commercial fishermen would be required to pay the State matching share. We are confident that the Washington State Legislature would not allocate general fund moneys for this purpose.

Page 14, line 1, we do not understand the meaning of this section. We are opposed to this section if it means that there be an equal number of each license type removed from the fishery. It does not make sense to remove, for example, an equivalent number of reef net vessels and charter boat vessels. We propose that this section be stricken.

Page 14, line 10, we would like to see the words "and effective" inserted into line 10 between "expeditious" and "reduction."

Page 15, line 11, the history of proposed paragraph 4 of this section has been one of the most controversial aspects of the existing Washington State buy-back program. The original statutes as they were established by the Washington State Legislature, prohibited the reuse of fishing vessels that were bought and sold pursuant to the program in the commercial salmon or charter boat fishery. Immediately the treaty tribes, through the Federal court, attempted to alter the provision of the statute as it applied to treaty Indian tribal members. This effectively stopped the progress of the program.

Furthermore, even though the existing State legislation does prohibit the use of vessels in the commercial salmon fishery, undocumented vessels are almost impossible to trace and the statutes are consequently nearly impossible to enforce. Our major opposition to this paragraph is that if the vessels are not allowed to be used again in the Washington State commercial salmon fishery, the auction of these vessels will return a small amount of money back into the program fund. If the vessels are allowed to be reused in the State, there will be a much greater return to the program for the purchase of additional vessels. We would like to point out that while we propose that the vessels may be reused in the fishery, each time a vessel is sold through the program there is an existing State law that requires that all licenses attached to that vessel be cancelled even if particular vessels may be reused in Washington State. Consequently, the program will produce the desired results of effectively reducing the overall fleet size.

Representative PRITCHARD. If you want to reduce the fleet size, how do you do that? I think you can understand the confusion. If you are going to get them out of use, then you say we want to have them so they can go back into use by the fleet, how do we get them out? Are they replacing existing boats that people are licensed to own?

Mr. ANDERSON. There is an existing moratorium on the issuance of licenses, each salmon license that is bought through the program will cut down the fleet size. Now somebody that is left in the fishery, if he has an older boat, and a newer boat comes up through the auction,

I think he should be able to go to the auction and buy that boat, put his existing license on that boat he just bought through the auction, and put his older boat out of the fishery. That would increase the viability of the fishery but at the same time reduce the number of boats.

Representative PRITCHARD. Would it improve the quality? Is it possible that the new boats would have greater capacity and be more effective?

Mr. ANDERSON. In the inside fisheries, gillnet and purse seine the size of the boat doesn't determine the effectiveness. Now the troll fishery that is a problem.

Representative PRITCHARD. If you have a boat with greater capacity going in, especially where the fishing stock isn't going to be reduced, even though you reduce some of the boats—well, you see what the dilemma here is? I understand what you are saying.

Mr. ANDERSON. I just hate to see these good boats bought by the program go to another State, they are wasted.

Senator MAGNUSON. You are not saying that the license should not be reduced. You are merely saying that a boatowner should have the right to take or pick up a newer boat, is that right?

Mr. ANDERSON. That's right.

Senator MAGNUSON. But give up the one he has?

Mr. ANDERSON. Yes.

Representative PRITCHARD. That's all right if it doesn't increase the fishing capacity.

Mr. ANDERSON. Yes.

Representative PRITCHARD. You said on the inside it wouldn't but on the outside it would.

Mr. ANDERSON. Yes; it could.

Representative PRITCHARD. How do you get around that?

Mr. ANDERSON. Maybe it is up to the troll fishermen to recommend this, you could have both units, so it might take two small boats or two licenses off of small boats, to put them on a larger boat, something like that.

Representative PRITCHARD. The problem is that we keep cutting off little parts of the table legs, it is hard to keep the program balanced. I see what you are trying to do, I'm not certain you can do it. The effectiveness of the program you know is really hampered when we get more complications. I think we understand each other; maybe something can be devised or worked out.

Senator MAGNUSON. That would be a State matter, wouldn't it?

Mr. ANDERSON. Yes, except that in the proposed legislation it says that the only people who could reuse these vessels are treaty Indians.

Representative PRITCHARD. And you want it for all fishermen?

Mr. ANDERSON. Right.

Now, page 15, line 23, we would like to add a new paragraph as follows: and this would be new paragraph C, "offset negative tax consequences, resulting from the sale of capital assets". As we have discussed in previous testimony, there will be serious tax consequences for fishermen with larger vessels who participate in the program. For the program to induce these people to leave the fishery, compensation must be provided for the program to be effective.

Senator MAGNUSON. Now what do you mean? Eliminate the capital gains tax?

Mr. ANDERSON. Or the consequences of that tax for that particular sale.

Representative PRITCHARD. This puts it into the Ways and Means Committee.

Mr. ANDERSON. I'm afraid it does. I have talked to many staff members and many Congressmen about how to get around this problem, but I am also faced with the problem that unless something can be done to take care of this somehow, either by putting more money, or something, the program is not going to work.

Representative PRITCHARD. The Ways and Means Committee has a long list of bills. If somebody was trying to accomplish something and put a rider on to make exemptions or changes in the tax, the bill could be stalled in the committee. So I am fearful of that. Maybe there is some way around it. If it gets in the Ways and Means Committee, it may never see the light of day.

Mr. ANDERSON. If somebody could come up with a suggestion on how to do it, that would be great. We have wrestled with this for a couple of years now.

Senator MAGNUSON. There are endless proposals in Congress to get around the capital gains tax, like giving a tax credit. You are right; if it gets to the Finance Committee it will be lost in the shuffle.

Representative PRITCHARD. Well, we don't like to say that.

Mr. ANDERSON. As in previous testimony by Washington State legislators, the State of Washington will not assume the responsibility of eliminating from the fishery the marginally productive commercial salmon fishermen. Our association has been working for many years to attempt to limit the commercial salmon fishery to professional salmon fishermen and have consequently pushed for the institution of this concept. None the less, the Washington State Legislature does not share our views. This section must be stricken.

In the future legislature in 1981, if we can find any way we can push for institution of bottom cut off level, something to take care of this marginal problem, we'll be the first ones to push for it, but right now, as even testified yesterday by the legislators, it is just not possible.

Page 16, line 4, the apparent intent of this paragraph to prohibit an increase in the size of the commercial salmon and charter vessel fleets. There is a wording conflict within this proposed paragraph, in that each year new commercial salmon and charter boat fishing licenses are issued as renewals. This section should be clarified to accomplish its intent.

To accomplish the goals of the proposed program, between \$50 million and \$55 million are needed, provided that the vessels purchased by the program may be reused in the Washington State commercial salmon fishery. If the vessels cannot be used, much more money will be needed. In addition, we would hope that the necessary funds will be available for a period not to exceed 4 years from the effective date of the act. The proposed legislation suggests a program life of 10 years. We feel that the program goals will be better accomplished if there is an incentive to immediately leave the commercial salmon fishery. A provision of a maximum time period of 4 years should accomplish this.

We will not comment on the tribal fishery development program since it does not directly affect us. We will nonetheless monitor the changes of this section.

Senator MAGNUSON. We appreciate your suggestion. We will take a good long look at it. I hope it is understood that that is the reason we are here, is to find out what the people at home think about this, and give us their modifications or amendments and things like that. Apparently up to now nobody has been satisfied with the bill. Everybody wants an amendment somewhere, except for one thing, the money. Everybody feels that the Federal Government should furnish all the money, and this is what is going to be difficult for us in Congress, to prevail. It was introduced by request and I know that the authors of the bill expect a lot of amendments.

Anything else?

Representative PRITCHARD. Paul, how do you see the time? We are anxious to move on this thing. Is there a time factor here, besides the normal urging to get on with it. Is there any crucial time that this has to be met?

Mr. ANDERSON. The next fishing season looks very bad to us. And the sooner that we can get some relief money the better off we will be.

Representative PRITCHARD. Now when are we talking about?

Mr. ANDERSON. The 1980 fishing season will be open to November, if it lasts that long, and the other time factor is that the State has an enhancement program going, and shortly it should start paying off somewhere. Now if that is paying off before the buy-back program comes into effect I am afraid that some people may just try to stick it out, because they see the enhancement may be OK. I would just as soon get them out so they don't have to be perpetuated into a marginal fishery that has been going on in the last 4 or 5 years.

Senator MAGNUSON. That's the buy-back program. Is there a time element in the enhancement?

Mr. ANDERSON. There is no time element except that there is an existing State program.

Senator MAGNUSON. They are going to continue the existing State program, with a supplemental program with no time limitation. It's too bad we didn't get at this sooner, because we were advised by everyone to wait until the Supreme Court made a decision, and we all agreed on that. We all agreed we would wait until the Supreme Court made a decision, and then we would take a look at legislation. But the time element has been bothering me.

I suppose we could pass part of it.

Representative PRITCHARD. I don't know.

Senator MAGNUSON. We could get into it in bits and pieces, instead of one piece of legislation. There is a problem—I'm glad Congressman Pritchard brought it up, because I was wondering about the timing, and on this management program, it takes a little time. Even if we decide on the management program to put together, the fishing season may be on its way or over by that time.

But we are making progress, anyway.

Mr. ANDERSON. Good.

Senator MAGNUSON. This is just a beginning.

Mr. ANDERSON. I very much appreciate your interest.

Representative PRITCHARD. We appreciate your efforts, Paul, and I want to say publicly that you have talked a lot with us, and you have become very familiar with our office, both here and back in Washington, D.C. Now I appreciate what you are doing. You have really tried to be part of the solution, rather than part of the problem, and that ought to be recognized.

Senator MAGNUSON. Thank you very much, Paul.

All right, now, Harold Lokken, who is the coordinator of the advisory committee on salmon management. He took on the job voluntarily to see if we can't work out this management problem, and give us some suggestions. He speaks for the advisory commission. Is that correct?

STATEMENT OF HAROLD LOKKEN, COORDINATOR, ADVISORY COMMITTEE ON SALMON MANAGEMENT

Mr. LOKKEN. That's correct, I think I was pushed into it, rather than a volunteer.

Senator MAGNUSON. Pull the mike closer to you so everybody can hear.

Mr. LOKKEN. My name is Harold Lokken, I am the coordinating member of the committee of 11 which for the past 7 months has been examining the problems involved in developing a mechanism for coordinating management, research, and enhancement policies for Pacific Northwest salmon and steelhead. The committee consists of a representative from the fish and game departments of Idaho, Washington, Oregon, and Alaska, from the several Indian tribal organizations and one from the University of Washington in addition to myself. A list of the names and affiliations of the members of our committee is included in this report as table I.

Our committee was formed as a result of a hearing before this committee in May 1979 at which ten fisheries scientists and professionals from the Pacific Northwest expressed concern for the future of Pacific Northwest salmon and steelhead. Following the hearing, three Senators and five Representatives from the Northwest initiated action which resulted in the creation of our committee. The committee was charged with studying the management aspects of Northwest anadromous fishery resources other than the problem of percentage allocation between treaty tribes and other fishermen, with examining various organizational options having the goal of coordinating management policies for salmon and steelhead stocks in the Northwest and with suggesting the makeup, participants, structure, operating procedures, and authority of such a potential coordinating body.

Our committee made a progress report to your committee hearing in Seattle on August 17, 1979. At that time we had intended to submit our report for wider review and input before reporting the results of our study to our sponsors. Because of time and budget limitations, we have been unable to do this. Instead we are submitting this report to your committee and to our other sponsors for such implementation as may be deemed appropriate.

For the sake of simplifying discussion, our work involved consideration of 42 regional stocks of salmon and steelhead over which

from 1 to 14 bodies exercise some measure of jurisdiction. A prime example of the complications involved is that of Upper Columbia River chinooks where 10 different agencies from Idaho to Alaska have regulatory authority over parts of the resource. A list of the regional stocks considered and the jurisdiction having a voice in their management is included in this report in table 2. A list of the jurisdictions including abbreviations used can be found in table 3.

During the course of our work, our committee met 12 times. All members of our committee have not attended all of our meetings but all members have been kept abreast of our progress.

Our group considered many proposals during its deliberations. One was to continue the status quo and allow the different organizational entities to pursue their own goals as they have in the past with the hope that, because of deteriorating conditions, all would manage, research and enhance in ways that would provide for the common good.

A second proposal would vest control over each stock of salmon or steelhead in the organization producing the greater proportion of the stock. This would occur where there were two agencies having management authority in an area or areas where the salmon or steelhead are harvested.

A third proposal would give control to a majority of jurisdictions where there were three or more involved. A fourth would require each management entity to develop a comprehensive management, enhancement and research plan for salmon and steelhead under its jurisdiction with the requirement that no plan could be implemented until 60 days following the date on which notice of the plan had been sent to all entities having jurisdiction over the stock or stocks involved. This would not apply to in-season management under a previously approved plan. The intent of the 60 days notice was to allow input by all jurisdictions before final implementation. Veto rights would not be a part of the input process.

A fifth would submit to binding arbitration by a national arbitration group any disagreement between or among entities where the entities do not unanimously approve a proposal. A sixth would authorize management by the National Marine Fisheries Service in the event there were unresolved disagreements.

The committee considered the six proposals in depth as well as a number of general suggestions but rejected them. It was the consensus of the committee that the following proposal would generally provide protection of the resources and eliminate many problems in management while recognizing applicable law:

Each entity, as listed in table 2, within each salmon and steelhead producing area shall draw up a plan for management, research, and enhancement for each stock of salmon and steelhead in its jurisdiction following which all entities having such responsibilities shall meet to coordinate all plans into a single plan. This coordination shall be addressed by the formation of an overall mechanism in which all entities having jurisdiction in not only producing areas but harvesting areas as well, shall be entitled to participation. Any differences not resolved among those having a direct interest shall be submitted to some form of arbitration set up at the time the mechanism is created.

The committee has not spelled out in detail the ingredients of such an overall mechanism. This will depend upon the extent to which the concept is generally approved. It will depend, also, on recognition of

the basic premise that the future of salmon and steelhead is contingent on the continued investment in the resources by the producing jurisdictions and that any management scheme that is going to succeed in the long run must have this principle at its core. It is self-evident that if catches of salmon and steelhead in jurisdictions other than the producing jurisdictions are not controlled at an appropriate level, the willingness of the originating jurisdiction to invest will decline over time and with it the resources themselves.

In behalf of our committee, I wish to thank the Senate Committee on Commerce, Science, and Transportation and the individual Senators and Representatives who gave rise to our study, for the opportunity to make public our views on the problem of coordinating policies on Northwest salmon and steelhead management, research, and enhancement. We only hope our efforts have been of some value in pointing to an eventual solution to the problem.

Thank you.

Senator MAGNUSON. I would say that management problems are one of the more serious problems. In attacking this problem, I am impressed with the fact that after 60-day notice no veto rights will be part of the input process. If there was an argument it would go to arbitration. The committee also recommends management problems beyond Washington State and Alaska, Oregon, and California, do they not?

Mr. LOKKEN. Correct.

Senator MAGNUSON. Does the committee think that the bill before us can or should be amended to address itself to this proposal?

Mr. LOKKEN. The committee didn't address that subject specifically, but that would be desirable.

Senator MAGNUSON. The bill doesn't address itself specifically to the management.

Mr. LOKKEN. That's correct.

Senator MAGNUSON. It looks to me as one of the most important parts of the solution to the problem. Should we wait for the conclusion of our negotiations with Canada on this?

Mr. LOKKEN. Not necessarily.

Senator MAGNUSON. We don't have to, do we?

Mr. LOKKEN. It is my belief that if we can address the problems on the U.S. side, we will have no great difficulty getting Canada to conform to an overall conservation program.

Senator MAGNUSON. They don't have the complex management problems we have, do they?

Mr. LOKKEN. No. They have different groups, of course, within their fishing industries. They have the gillnetters, seiners, and trollers, and sportsmen and whatnot.

Senator MAGNUSON. But there is a mechanism to make a decision, isn't there?

Mr. LOKKEN. They can make the decisions much more rapidly than we.

Senator MAGNUSON. Much more rapidly than we can. I think they would look with favor upon such a mechanism as suggested by you, you and your committee. So that when we made a decision, they could make a decision, and we could coordinate the two.

Mr. LOKKEN. Right.

Senator MAGNUSON. Instead of having everyone running in different directions, I know that you said that in the beginning of the testimony that there are—how many people involved?

Mr. LOKKEN. Fourteen jurisdictions.

Senator MAGNUSON. A prime example, there are 14 parties exercising jurisdiction. We just can't go on this way. I appreciate your work, and the work of the committee voluntarily going about this matter and giving us some advice. I am just thinking off the top of my head here, in the bill, we ought to have a paragraph for management, and try to lay it out completely, so that we can do away with all this confusion.

I think the suggestion is good. Now you mention the options.

Mr. LOKKEN. That's correct.

Senator MAGNUSON. The last one sets up this mechanism. The committee considered six proposals as well as a number of general suggestions, but rejected them. Did the committee decide on this suggestion?

Mr. LOKKEN. Yes; we reached consensus on the final recommendation.

Senator MAGNUSON. Now over all, we want to make sure that they have jurisdiction not only in the producing area but the harvesting areas. Once they participate and have an input, which they should have, then somebody has to make a decision.

Mr. LOKKEN. That is correct. That is where arbitration would come into play.

Senator MAGNUSON. What do you envision the arbitration board would be?

Mr. LOKKEN. This could be any one of a number of forms. We didn't go into that in depth. We just wanted to see to what extent we could reach agreement on the basic principle that these entities should get together, and if there is disagreement, the disagreements should then be submitted to a form of arbitration, that would be agreed upon at the time the mechanism is set up.

Senator MAGNUSON. And the so-called arbitration board would consist of Government officials or what?

Mr. LOKKEN. It could be either, depending on the wishes of the participants at the time.

Senator MAGNUSON. NOAA would participate, I would imagine?

Mr. LOKKEN. I imagine.

Senator MAGNUSON. Also the State fisheries department? I wouldn't like an arbitration board to be made up of all public officials. I think the fishermen ought to be involved and everybody else. The arbitration board can't be too large or else we wouldn't get off the ground. Joel, do you have any questions?

Representative PRITCHARD. First, I want to thank you, Harold, for your work. These are the kind of chores that are sort of thankless chores, and you are right, somebody sort of pushed you into it.

Senator MAGNUSON. This is rising above the call of duty.

Representative PRITCHARD. This is how things really get solved, and I am looking at the makeup of your group. You have a pretty wide variety when you say you came to agreement. Is this a general agreement, was it a 75 vote, or roughly, is this the recommendation of all these members?

Mr. LOKKEN. All of those that participated, yes. No one objected to the recommendation.

Representative PRITCHARD. That is very encouraging, because you have a pretty good variety of people here, and some interests that in the past have had trouble agreeing, so I guess I would have to congratulate you, Mr. Chairman, getting the job done here. Do you think it would be helpful if something was written into the legislation touching on this subject, or digging into it? What would be your recommendation, as far as the legislation?

Mr. LOKKEN. I think something should be written in, in order to implement the suggestion.

Representative PRITCHARD. I guess the suggestion is how much detail or had you thought at all about that?

Mr. LOKKEN. This would be up to your committee.

Representative PRITCHARD. I think it would be helpful, and I think the Senator would agree it would be helpful to us if your committee would look and see how we could fold this into the legislation that we are working on. These things always get more complicated than we think when we start, but it seems to me that if we got a chance, because this is actually crucial, if the management part is put together properly, well, all the rest of it is going to go down the drain.

Mr. LOKKEN. It could happen.

Representative PRITCHARD. Well, I congratulate you sir, it is not unusual, you have taken on a lot of chores, in the last few years, 3 or 4 years or so.

Mr. LOKKEN. When you are around a long time you collect those chores.

Senator MAGNUSON. OK, thank you.

Now we have a panel, Greg Bloom, would you come forward?

STATEMENT OF GREG BLOOM, MANAGER, WASHINGTON TROLLERS ASSOCIATION

Mr. BLOOM. Well, my name is Greg Bloom, of the Washington Trollers Association. We would like to thank the committee for this opportunity to testify today concerning our particular concerns within the troll fishery and how they relate specifically to bill 2163.

The trollers realize the problems faced by all gear types and engaged in harvesting the salmon resource. We hope that a fair and equitable solution can be found to some of the nagging problems by cooperation of the user groups and with support from the State and Federal Governments.

The Washington Trollers Association represents approximately 300-troll fishermen from throughout the State of Washington. Our members are the highest producers of troll caught salmon in the State, responsible for 70 percent of the total catch. These professional, full-time fishermen not only catch, by far, the greatest amount of troll caught salmon in Washington waters, but are capable of guaranteeing the finest quality product, when it reaches the dock, through their expertise and facilities. The troll caught salmon produced by Washington trollers is of the highest quality anywhere and demands the highest prices on worldwide markets.

I will not belabor the particular problems of the troll fleet except to say that for many fishermen it is becoming increasingly difficult to

maintain their lifestyle. There is no question that Federal dam legislation and Federal Indian treaties have been major contributors to these problems. S. 2163 has the potential of solving some of the problems faced by fishermen. In its present form, however, the bill has many deficiencies and some inaccuracies that limit its potential for correcting any of the problems it is designed to solve.

One problem area of the bill is certain misleading language found in Title II: Resource Enhancement and Habitat Maintenance; Section 201(d) Standards, subsection (2) where it states: "standards shall include provision to protect existing stocks of salmon and steelhead, the biological integrity and adverse interaction between natural spawning and artificially propagated stocks."

This language poses a factual dilemma, especially that provision calling for protection of the biological integrity of salmon stocks. The problem with this language is that it is difficult or impossible to delineate, at least in Washington waters, a distinction between naturally spawning or so-called wild runs of salmon and those reared at hatcheries. The department of fisheries in our State has not only mixed hatchery and naturally spawning runs on the same river but has consistently intermixed the salmon from various streams and rivers in the State as part of their hatchery program. This is not to say that the fish raised by the department or even the naturally spawned fish are not biologically sound stocks of fish; there simply is no significant distinction between them. Since there no longer remains a genetic distinction between naturally spawned or so-called wild-fish and those produced in hatcheries, it seems a folly to maintain this fiction.

If we are indeed going to protect naturally propagated stocks of fish, we need a definition of what they are. We believe that the legislative history should provide the reasons for maintaining such a distinction and provide examples of instances in which preservation of the distinction would be beneficial. However, memorializing the distinction in Federal legislation without adequate definition is regrettable, since it continues to aid and abet a fiction that is particularly damaging to trollers. Trollers in this State face the dilemma of having been consistently regulated on the weakest wild runs and not on abundant hatchery stocks. Examples of less abundant natural runs for which we have been regulated this past season, include the Oregon coastal coho, Upper Columbia River chinook and Washington coastal coho.

The dams that were constructed on the Columbia River went a long way in contributing to the demise of the natural runs on the largest natural salmon spawning area in the world. It is ironic that Federal legislation would now insist on the importance of genetic or biological integrity among salmon stocks.

Senator MAGNUSON. Why is this ironic? Because we built the dams?

Mr. BLOOM. It is ironic that after having contributed in a way to the demise of some of those runs, you insist on some kind of—

Senator MAGNUSON. We didn't pay enough attention to the fish.

Mr. BLOOM. I think so.

Senator MAGNUSON. I've had a little bit to do with the building of the dams on the Columbia River, and I think we are pretty fortunate

here that somebody had the foresight to build some dams, we could have had an energy crunch that would have been unbelievable.

Mr. BLOOM. There is no doubt that society—

Senator MAGNUSON. I don't think that when the dams were built that they paid enough attention to the fish, although we have been trying.

Mr. BLOOM. I think there has been significant progress, probably, but it is not likely that we will return those fish to the numbers that once existed there.

Senator MAGNUSON. OK, go ahead.

Mr. BLOOM. The wording of section 201 (d) subsection (2) should be changed to deemphasize the misleading phraseology, particularly the term biological integrity. Instead, the sentence might be designed to emphasize protection of important stocks of salmon and steelhead.

Another problem with S. 2163 in its present form is it's intended area of application.

Under definitions, the bill says: "The term 'conservation area' means all salmon and steelhead habitats within the State of Washington except the Columbia River drainage basin." We feel the bill should be revised to include the Columbia, since it is one of the problem areas most affecting Washington fishermen. It would be difficult to extend the conservation area up the entire length of the Columbia, because of dam related fish mortality, but we think it should be extended up to and including the Dalles Dam.

Also under definitions, the following should be added to permit associations to receive grants for enhancement projects: "The term association means any commercial fishing or charter fishing, fishing trade, marketing, or cooperative organization." The various associations could then be set up to handle nonprofit enhancement projects, such as small eggbox programs, utilizing the labor and cooperation of fishermen.

Senator MAGNUSON. I think that is one of the deficiencies of the bill. All the grants go to governmental Agencies. Conservation can be done by other cooperative organizations, for instance nonprofit organizations.

Mr. BLOOM. I think so. A prime example of that going on right now is Westport. There is a group of fishermen—

Senator MAGNUSON. I don't know if they can get any money appropriated, but at least they should be eligible, shouldn't they?

Mr. BLOOM. I think so.

As I said, there is a group in Westport currently handling projects similar to that.

Senator MAGNUSON. They should all be eligible.

Mr. BLOOM. Despite the resistance of the various user groups, it appears that the Department of Interior has been designated as the lead agency at this point. We find this regrettable and request that the Department of Commerce be designated as the lead agency.

The bill addresses enhancement needs, but is severely lacking adequate funding. The settlement plan by the commercial-recreational fisheries delegation recommended \$121 million for enhancement with the stated goal of producing at least twice as many salmon as then existed. The \$25 million proposal in S. 2163 seems inadequate, espe-

cially when compared to the figure originally proposed in the commercial-recreational proposal.

Senator MAGNUSON. You said the goal is twice as many salmon, but you may be high on the figure. Well, that's a matter we will have to reconsider. We'll try to get all the money we can. Well, go ahead.

Mr. BLOOM. As a matter of procedure, under section 204: Review of Enhancement Projects, there should be required a process for annual or semiannual reports on the project. Also, what the projected purposes of the project are, whether they are being achieved, and the impact of the enhancement project on relevant stocks and fisheries. If it is determined that the project is having a significant adverse impact on stocks or fisheries, the funds should be terminated.

Senator MAGNUSON. There will be a review of all of these things. It is not spelled out in the bill, but it probably should be.

Mr. BLOOM. And there should be a provision for public review as well. It can't be assumed—

Senator MAGNUSON. What do you mean by public review? We are not going to review everything; we would never get anything done if everybody is going to review it. We have to make a statement, and make some conclusions and then the public can tell us to terminate the project, or give more money or less money, but the review has to be done, and laid out.

Mr. BLOOM. I think in a manner we are doing it.

Senator MAGNUSON. Maybe we should have a time element.

Mr. BLOOM. I think in the manner we are doing here, I think it should be provision for review of the various user groups, and so forth.

Senator MAGNUSON. Oh, sure.

Mr. BLOOM. But right now it seems in the bill that the only persons qualified to comment on these various enhancement programs are the State, the tribes, and the Interior, and we would like to see that corrected.

Senator MAGNUSON. They are not the only persons. In fact, Joel Pritchard and myself are worried about the users, too.

Mr. BLOOM. Under the enhancement section, there should also be provided a provision for public review. A coordinated enhancement program requires the broadest range of input and comment possible to minimize conflicts.

Another area of this bill which we support, yet find inadequately funded, is that of buy-back. Trollers face economic difficulties from court closures and governmental regulations that have reduced their season a total of 122 days in the past 3 years. The effect of this loss of fishing time has been financially damaging to a great number of trollers, making a voluntary buy-back program essential and attractive. However, in order to guarantee the success of this program, there must be sufficient incentive for fishermen to participate. In its present form, it would appear this bill provides an inadequate amount of money to act as an incentive. This becomes even more apparent when it is spread among the various gear types and administered over a 10-year period. We feel there should be more money available and it should be available over a 3- to 5-year period, instead of a 10-year period as proposed.

Senator MAGNUSON. You suggest that if we have a buy-back program we should have a time limitation? It should be reduced? I think most of the witnesses feel 10 years is too long. They wouldn't have the incentive. That is a good suggestion.

Mr. BLOOM. There would also be an incentive for participation early on the program, too. For example, those that participate in the first year of the program should receive more money than those participating later, as an incentive. The buy-back should also allow for purchase of boat, license, and equipment, at a fair market value, plus an adjustment upward for past skills and productiveness demonstrated in the fishery. This would act as reasonable purchase value of the fisherman's business and a reward to individuals who have demonstrated a significant commitment to salmon fishing. There should also be an incentive for early retirement as provided for in the Com-Rec proposal, with more money available to those that participate during the first year of the program and adjustable downward in subsequent years.

The buy-back program should also incorporate a separate provision for long-term, low-interest loans to fishermen for purposes of transferring their efforts and equipment to other fisheries. Through a program of tax deferred, low-interest loans, fishermen who don't want to get completely out of the industry, could help themselves and their communities by becoming involved in heretofore underdeveloped fisheries. Such a program would also aid in securing a more favorable balance of payments for our nation.

Senator MAGNUSON. There is a lot of interest in the fisheries. It will take time. You know I passed a bill in Congress, allowing low-interest loans for fishermen, for gear and everything else, and nobody took advantage of it. It's still in the books. Nobody came in and took advantage of it.

Mr. BLOOM. Through the Small Business Administration?

Senator MAGNUSON. OMB put a freeze on it. But the law is still there.

Mr. BLOOM. Is that through the SBA?

Senator MAGNUSON. They certified it as a Small Business Administration, and the Small Business Administration makes the loans.

Mr. BLOOM. I just called the Small Business Administration and they indicated that the money had dried up at this point.

Senator MAGNUSON. That's because OMB put a freeze on it.

Mr. BLOOM. I think a lot of fishermen were concerned about that, because this year they have to purchase for example, \$35,000 investment for the boat.

Finally, in conclusion, we see no reason by the State should be required to provide matching moneys for this bill. And this is on page 11. We request that this legislation be fully funded by the Federal Government.

Senator MAGNUSON. Why shouldn't the State pick up its share?

Mr. BLOOM. The State has an enhancement program underway already. Above all the problems this bill is trying to address being created primarily by treaty Indian problems, should be—

Senator MAGNUSON. It's primarily a Federal responsibility.

Mr. BLOOM. In this area, yes.

Senator MAGNUSON. I am hopeful that the State won't give up and use this as a substitute for an enhancement program that they have been proceeding with for many years. This is supplemental. Well, you are going to run into a serious problem. The State's running in the black. Whoever wants to balance the Federal budget will have to be a magician to do that. We keep spending money, but this is a Federal responsibility.

Representative PRITCHARD. I think the problem here is one of how to draft this thing so that the effort that is being made by the State is recognized as being part of the money that helps us get it through Congress. If we can say the State is putting up some of the money, that's a State program, that is ongoing because they are going to do it anyway. Let's see if we can't use that as a vehicle to pry the Federal money out. It makes it a lot easier to get money out of the Feds and out of Congress if you can say this is a matching program. The matching side of the State's putting in is something we expect they are going to do anyway, but what we are doing it seems to me, we are making it look as if it is coordinated and this is an awful lot easier to sell. And we want reinforcements, as the Senator said. We are trying to figure out ways to get the Feds to respond. You and I can sit here and agree that they have the responsibility, and that it is a Federal problem and they ought to come up with the money, but we are faced with the situation where you have to convince somebody from North Carolina, and if he doesn't agree, we can say he is wrong, but wrong or not, we don't have anything. We have to draft this in the best way we can to get what we can. Is that a fair statement?

Mr. BLOOM. Well, I hope this would in no way reduce the State's involvement.

Representative PRITCHARD. It isn't reducing it but it is counting it as matching, and one of the reasons we are doing this is to make it easier to get other people around the country to go along with our needs here.

Senator MAGNUSON. And the *Boldt* decision didn't change the number of fish at all. It just changed the allocation. We are going to run into that problem, too. It just changed the allocation of the fish, but it causes confusion, and that's the responsibility of the Federal Government.

All right, who is next?

STATEMENT OF JOE GUEDON, INDEPENDENT SEAFOOD HARVESTERS

Mr. GUEDON. Good morning, Senator. My name is Joe Guedon, I am speaking for Jackie Prest, in the matter of the Independent Seafood Harvesters. Jackie has recently been hospitalized and was unable to attend, and she expressed—

Senator MAGNUSON. Tell her we wish her well.

Mr. GUEDON. We'll do that. She wishes to express her regrets and apologize to you for not being here. I think rather than go into detail since Greg Bloom has covered much of what we were going to say, I will attempt to summarize some of the testimony of Jackie, and then I would like to address a couple of specific things we would like to

see in the legislation. First of all we would agree with what Greg has said about the enhancement, we would also have to agree about what they said about what we feel about the funding, it is inadequate at this point, due to the enhancement and both the buy-back also we are in full agreement with the Washington Trollers Association in that we do not feel—I don't know how to express this, we do not feel the package goes far enough, in regards to the buy-back, we are afraid that it won't be enacted in time, and that we'll have a number of other problems. Maybe continue some of the others, but there are other things within the bill that worry us very much, and that is the fact that we don't see a breakdown of the enhancement and what will be contributed, for example, what will be contributed by the various areas and districts as you know in the task force proposal.

They recommend enhancement for each area, and this would be part of the means of offsetting the allocation problems as well as some of the other things. Now we are concerned about that. We would like to see a complete breakdown of these stocks by districts in the State of Washington. We also agree again with the WTA that we have to have the Columbia River included. I think you are pretty well aware of what has happened so far. We are being managed primarily because of the Upper Columbia River stocks, even though the majority of the fish taken by the Washington Troll fishery are Lower Columbia River chinook salmon, primarily hatchery salmon, and yet we are still expected to give up 50 percent of our total ocean harvests, and it has created some serious problems, as Greg has mentioned earlier and as has probably been brought to your attention many, many times.

We have some concerns about the bill specifically when it refers to standards; we don't know quite what these standards will appear to be. We are afraid that the standards, if they are similar to the standards we are talking about, for the Upper Columbia River harvesting escapement of 300,000 fish will be inflexible, and we haven't met that standard for a number of years, and suddenly expect that number of fish to get up the river and be available for harvest and enhancement is probably unrealistic, and we are afraid that what it will result in is continued reductions in the fishing seasons. We also see specifically the bill continued reference to effort reduction, along with the buy-back and limited entry it was hoped by our people that the buyback and limited entry programs would in fact reduce that effort, and with the enhancement, if undertaken, over a period of time, that it would—

Senator MAGNUSON. How long would the buy-back last? We are going to use this bill as a vehicle, that the buy-back should be administered by the State, as it is a State matter. How are we going to operate it? We can't write that in legislation.

Mr. GUEDON. I wasn't referring to that, but primary to the funding, also to the fact that we felt—

Senator MAGNUSON. All they want out of us is the money and to administer it themselves, which is all right with me, if we can get the money.

Mr. GUEDON. Well, we had some concerns about that.

Senator MAGNUSON. What I am trying to say is that the bill itself, I think, implies that we look at it. That the buy-back would be the re-

sponsibility of the State, not the Federal Government. I want that clear.

Mr. GUEDON. We understand that.

Senator MAGNUSON. No matter how much you put in it.

Mr. GUEDON. Well, our fears are as I say with the language regarding the buy-back and also the fact that it continues to recommend continued effort reduction and I am sure that Senator, from previous testimony, you are aware that Washington Troll Fisheries now is catching approximately 40 percent of the cohos that we caught during the base year, which was 1971 to 1975, and that we are catching about, I believe, 47- or 40-some-odd percent of the chinook that we caught prior to *Boldt* and *Belloni*, and the regional council. It is our feeling—

Senator MAGNUSON. Let's not get into argument here. It is the regional council's decision.

Mr. GUEDON. Well, I just wanted to state that our people have taken sufficient reductions, or should have met some of the—

Senator MAGNUSON. With smaller reductions they should. They have a regional council, that has been changed a little bit I hope.

Mr. GUEDON. The other thing I would like to do is we talked about enhancement in here, we would like to see some type of long term, if this is possible for you people to do, incremental solution to the current fisheries problems that will insure the economies or the viability of the troll fishery as well as the other fisheries, are protected. While at the same time meeting the goals of enhancement, escapement, and hopefully eventually allocation, if it has to be the case. Again we don't see language that directs us directly to that. But we would hope that that would be in the bill where we could lay out the enhancement by area or district, and see what would be at the various fisheries. We feel this is a better way than continuing restrictions. We are looking at the fact that it includes Washington's current enhancement program, and you follow through with the proposed enhancement, that the task force has recommended, which we are attempting to fund here, we are seeing down the road, by the 1980's perhaps, and increase of chinook salmon to the tune of about 300 percent.

Senator MAGNUSON. How does the State handle the enhancement?

Mr. GUEDON. Right now they are participating in a \$32 million enhancement.

Senator MAGNUSON. I know, but how do they allocate it?

Mr. GUEDON. I don't know how I can answer that. You say this legislation would leave it to the State? The only thing I was referring to—

Senator MAGNUSON. I just wondered how the State allocates it.

Mr. GUEDON. They reviewed the stocks, and felt what the various users would gain.

Senator MAGNUSON. How do they do that?

Mr. GUEDON. I think it is district by district.

Senator MAGNUSON. That is what you are suggesting?

Mr. GUEDON. Yes, and along with this, I am sorry, we would hope that the user groups again, this wasn't addressed in here, other than the form that the Indians were mentioned as being a party to the

management and the enhancement, and we were hoping that the user groups would be able to participate as well in order to assure that the types of stocks being utilized and also that the seasons be allowed so that if we do have this enhancement that I mentioned earlier, which will increase chinook about 300 percent, coho about 200 percent, and promote those two species.

Senator MAGNUSON. Now with enhancement we could spell it out in the Federal legislation, because if the State had a different rule, then it would clash. I would think that they would accept what the State did on enhancement section by section, or however they are going to do it—

Mr. GUEDON. Well, we are hoping that the user groups could become a part of this body in order to assure that everyone partakes in the benefits of the enhancement in the future. We are afraid that this may not happen.

Senator MAGNUSON. Well, you should go down to the State Department of Fisheries—

Mr. GUEDON. We've been there, sir, thank you.

Senator MAGNUSON. Or the Government, or somebody.

Mr. GUEDON. What we will do, rather than go through a lot of detail here, we will send you a complete and revised copy of Jackie's testimony plus some information that we would like to share with you, that actually in fact, does bring down some of these stocks by the district, and will surely demonstrate to you, and your fellow committee members, what can be done with enhancement and this is why I dwelled on this topic, because I believe the enhancement can be designed in such a manner that if we can have participation cooperation between the groups that we will all, in fact, benefit, but like I say, we are very concerned when we see some of the language in the bill that keeps referring to effort reduction because our feeling is effort reduction, and I am repeating myself, would be accomplished through the buy-back and limited entry, and where we are now, as I mentioned, because of the situation with the fisheries—

Senator MAGNUSON. You just put Jackie's testimony in the record.

Mr. GUEDON. We'll revise it a little bit and clean it up, because Jackie wrote this from the hospital bed, and she has just gotten ill recently and we will request that you allow us to send this sometime during the next week or 2, would that be permissible?

Senator MAGNUSON. Sure.

Mr. GUEDON. Thank you. Well, I don't need to go into any more detail except reiterate our real concern that perhaps non-Indian fisheries will not be a party to the management, but I think it is necessary to become part of the management and part of the enhancement. We believe that is what you are attempting to do with the bill anyway, is to see to it that these groups do in fact survive.

Senator MAGNUSON. You've heard Lokken's testimony. Do you agree with that?

Mr. GUEDON. I do, in part. I was unable to hear all of it. I will have to review it.

Thank you very much, Senator. And committee members.

Senator MAGNUSON. All right, Ken?

STATEMENT OF KEN PETERSON, WASHINGTON KELPERS ASSOCIATION

Mr. PETERSON. Good morning, I am Ken Peterson, I represent the tail that wags the business here, we are called small boats operators, and kelpers, and in some places in here they refer to us as marginal fishermen, which we seriously object to. I am not going to pursue my entire formula here, I just want to explain a few items that we have in it. To clarify any misunderstanding when you read my statement here, we printed this on blue paper to represent our feelings. We are all blue about this.

Senator MAGNUSON. You are blue about what?

Mr. PETERSON. The situation in general as far as fishing is concerned out there. They keep telling us "you are not viable fishermen, we want you off the water."

Senator MAGNUSON. Who tells you that?

Mr. PETERSON. Just about every committee that we sit in front of. We see in the bill in here, on page 16 you have—

Senator MAGNUSON. Pritchard and I never said that.

Mr. PETERSON. No, Representative Pritchard has been very kind to us.

Senator MAGNUSON. You shouldn't be blue. I'll tell you something; I have been involved in fisheries around here for 40 years, and everybody is blue all the time. Forty years ago, 20 years ago they were blue, and still we all survived.

Mr. PETERSON. Well, it seems a happy faculty that we do that.

Senator MAGNUSON. That's no reason why we shouldn't proceed.

Mr. PETERSON. That's right.

We have a little different approach. The Secretary of Commerce and the Secretary of the Interior, inasmuch as we feel that a commission should be appointed someone that we can relate to here on the west coast, and we have a problem, then we have to refer it back to Washington, D.C., we do so either by communications or by communicating back between the two organizations. We feel that if the regulations, and we no longer trust the council or the State, I just want to quote one little item in here.

Senator MAGNUSON. If you don't trust the State, or the council, where else are you going to go? You don't trust anybody in Washington, you don't trust the State, you don't trust the council, what are you going to do?

Mr. PETERSON. We keep manufacturing new trusts and we hope to get a commission in here, we hope maybe that our own members will not throw the book at us so much.

Senator MAGNUSON. I want to repeat again, whatever legislation we might pass, or hope to pass, we are going to relieve the Federal Government of as much responsibility as possible, except for money. There are going to be a few strings on the money, but you will have local control.

Mr. PETERSON. We appreciate that, sir. I still would like to just briefly state that this is a letter submitted by Mr. Sandison to the PMFC, whereby he stated in his letter:

Where ocean catches are too high, can cause future losses from insufficient spotters and reduce the inshore fishery in error, and in the opposite direction,

catching too few salmon in the ocean, does not present the same danger to spawn and escapement and will not generate wastage inshore fisheries because they will catch the fish.

And I want to point out an example of this type of reasoning on the Quillaute River, right at the fall of the year, between September 15 and 30, a good run of silver went up the river, the Department of Fisheries refused the Indians permission to catch these fish, they went on up to the hatchery where they were subsequently—where they beat themselves to death because the hatchery wouldn't open up and let them go on up to the wild spawn, and as a result they called the Indians up, and said, "Hey, we've got about 5 ton of fish up here, would you like them?" and the Quillaute Indians said, "No thank you, they are no value to us." So the fish disappeared someplace between the hatchery and whoever got them, or whatever use they used them for.

I merely point this out, as a fact that contrary to Mr. Sandison's statement, that they would not generate wastage because inshore fisheries will catch the fish, they don't. This is one of the reasons we would like to see a west coast commission established that would operate and run the fisheries. Preferably by State. I say that for the simple reason that everything is apparently designed to get the Washington fisherman off the water, but the reason PMFC's book of statistics just came out points that California has increased their licenses by 5,000 licenses. The State of Oregon has increased theirs by over 4,700, and we are reducing ours. We have reduced ours, and I am talking about the troller fee basically, by 1,700 licenses. This is the thing, they said, "Hey, you get off the water." Then I went back to the department of fisheries, and I discovered a very interesting thing. I spent about 3 days doing some research work down there, that the prime people, the ones that catch the most fish in the State of Washington, based on 1 through 2,947, that's the amount of people that sold fish in the State of Washington during the 1979 season, 32 of them caught between 20,000 and 30,000 pounds of fish. Now if you bought the 32 people out you would save half a million pounds of fish.

There were 206 that caught between 10,000 and 20,000 pounds of fish, and there were 316 that caught between 5,000 and 10,000 pounds of fish. Now I am a minor fisherman. I caught a little over 4,000 pounds of fish myself last year. I made a fairly decent living, but by the fact that the fish were pinks I worked on, I worked on an area that they came in, so based on that, we don't think that either the council or the department of fisheries is doing their job on the fisheries out there. On page 16, and I am not going to go through all this, but on page 16, line 1 through 3—if I remember right, 1 through 3—I asked you to strike the entire part, now apparently everyone else has the same consensus, this is where you refer to the marginal fisherman. I would just like to point out there is no such thing as a marginal fisherman, we have restrictions on social security, the amount of money you can earn, fortunately I am approaching the age of 70, and pretty soon I will be in that happy never never land, where I can earn all the darn money I want, I want to continue to fish if I can.

Senator MAGNUSON. You've got a long time.

Mr. PETERSON. Two months—in April I'll be 70. Within our group we have about 400 members in there, but these same statistics point

out that between 700 people that caught 700 pounds of fish—between 700 and 1,000 pounds—it was about 1,100 licenses, that were viable. Now a man that only catches 700 pounds of fish, you say “what the heck, he isn’t really that much,” but at \$2 a pound that is \$1,400, that \$1,400 is a lot of money, if he is on social security. Well, it is a fact that we say as a marginal fisherman, it could be a man that went tuna fishing and he is not a marginal fisherman, but as far as the salmon is concerned he is a marginal fisherman. We don’t know what the interpretation is, but we would like to see it struck, and I appreciate the opportunity at this time to tell you some of our problems because the small boat operator is concerned. You mentioned a little bit about you couldn’t understand why the Small Business Administration, which has money to loan, hasn’t made many loans. Well, I can tell you.

Senator MAGNUSON. I can understand why. All the budget directors have put a hold on it.

Mr. PETERSON. I was referring to the boatowners themselves—the boatowners themselves, in our particular case. I made a survey of our members, and I discovered that 91 percent own their boats outright because they are in the \$8 to \$20 class, and they make a viable living every year out there on the water. They enjoy it.

Senator MAGNUSON. They don’t need to make a living.

Mr. PETERSON. They don’t make a living per se that they have to use this money for living year round, but why eliminate them from the one particular chore. For example, I have six members in my organization that are or were commercial fishermen with a large boat, now they have reduced themselves down from 42- or 45-foot boats down to 23- or 24-foot boats, and they do this as a pasttime, they aren’t commercial fishermen, per se, but they do this now to supplement their social security. One gentleman, incidentally, is 78 years old and still actively fishing. These are the people we are trying to protect, sir.

Senator MAGNUSON. The reason I mentioned that bill is because Greg mentioned that we should have some loan features in the legislation, and I was saying that there is this loan that might be handled administratively within the bill.

Mr. PETERSON. I think the Senator has a point there. If we could get that kicked loose from OMB and go back to Greg—the vicious problem here, and I agree with him—the problem of working on one species of fish out there just simply has to be considered in another context. A lot of these people for instance they are rigged for salmon, and it will cost them \$8,000 to \$20,000 to rereg their boats to go into long-lining and crabbing, and shrimping, whatever you wish, I am sure you are aware of the problem.

Those people, I agree with you, should be permitted to make loans at low rates—low interest rates, to reconstitute their boats so they can continue to work on the resources that we have. We get the Russians off the dingdong water out there, and just put American fishermen out there, we can harvest the fish, if we are given the opportunity and the process we’ll buy them.

Senator MAGNUSON. We are making great progress on it.

Mr. PETERSON. I know you are, sir. Up in Alaska, look what you did up there.

Senator MAGNUSON. That 200-mile bill is working. Do you know of anybody that wants to repeal it?

Mr. PETERSON. No; I wouldn't want to repeal it that's for sure.

Senator MAGNUSON. The purpose of the bill is to get all the foreigners out.

Mr. PETERSON. That I would applaud to no end.

Senator MAGNUSON. Gradually we are doing it, including the Russians.

Mr. PETERSON. I have only one problem with the tribal fisheries development program. I just wish briefly to mention it here, because I fish off an Indian reservation called the Lapush or Quillayute Reservation at Lapush, Wash., and I've seen many instances of placing money within the Indian tribes for fishery and fortunately we have good qualified Indians who are capable of managing the money, but unfortunately we have the majority of them who are not, and so what can I say about the Indian development, other than to say that they would specifically have to establish projects that were compatible with the State projects. We hope this—well, I hope this Commission would establish this, kind of a lord of their own, here on the west coast, that would run fisheries under the Senator's jurisdiction, or under the Senator's House jurisdiction, we have to go someplace to get a complaint, you know, we can't do it with the President. I haven't been able to talk to him since I've been in office here, but I can talk to you, and that is what we appreciate.

I think I have said my speech. I thank you very much for this.

Senator MAGNUSON. What do you mean, you haven't been able to talk to me?

Mr. PETERSON. No; I've been able to talk to you.

Senator MAGNUSON. All right, thank you all very much, we've got to move along here. Be sure to send our best to Jackie.

Mr. GUEDON. We will.

Senator MAGNUSON. All right. Is Harold Philips here?

[No response.]

Senator MAGNUSON. Is Jack Giard here?

STATEMENT OF JACK GIARD, WASHINGTON REEF NET OWNERS ASSOCIATION

Mr. GIARD. Senator Magnuson, and members of the committee, my name is Jack Giard, and I represent the Washington Reef Net Owners Association. We are a small organization made up of 75 reef net license owners who conduct their fishing within small reef net zones located in the San Juan Island in northern Puget Sound.

I want to thank you for this opportunity to testify on this proposed legislation. It is indeed encouraging after all the years of chaos that have followed the 1974 *Boldt* decision to finally see a glimmer, if not actually a full fledged ray of light at the end of the tunnel of desperation that we fishermen have been traveling these many years.

The job ahead will not be an easy one nor will it be accomplished overnight, but with all organizations and groups starting to work together to save both our salmon resource and the industries it supports, we have hopefully reached the turning point that will give us ultimate success.

Now that we have the proposed legislation in front of us, any commentary that we as representatives and spokesmen for our individual organizations make must necessarily take into consideration the effect the legislation will have on our members.

In the area of enhancement and conservation, we as reef netters have always pointed to the excellent technique and results which have been realized by the International Pacific Salmon Fisheries Commission on the Fraser River system. There is no other salmon management entity in this State, or for that matter in any other State south of the Canadian boarder, that has produced the results that this dedicated group of scientists has brought us. It is through their excellent management of wild river fish and the artificial spawning channels they have developed in areas that had become nonproductive, that we have what amounts to the only stable, consistent fishery migrating through the waters of our State.

We have passed the point of needing any more detailed scientific research on salmon management and production. We have some of the finest potential salmon-producing rivers in the world within the boundaries of our State. The IPSFC has provided the example of how to make our rivers produce the resource so vitally needed if we are to survive. So, let's get on with it before what little we have is gone.

As I have stated in previous hearings, the enhancement of Washington rivers will have little noticeable effect on the number of fish passing through our reef-net zones, the areas to which we are confined by the State. Ninety-five percent of the salmon traveling through the San Juan Islands where we fish are Fraser River fish. As a matter of fact, there are only two Washington State rivers that are far enough north to place migrating salmon in our waters. These are the Nooksack and Samish River runs which, even though they rate among the State's best producers at present, still do not account for significant runs of salmon in our waters during peak fishing times.

The indirect effect produced in our fishing zones as a result of enhancement and gear reduction, however, will be very significant. The tremendous fishing fleet that now exists in our area as a result of being "the only show in town" has resulted in the extremely limited fishing seasons we are faced with now. This year, for example, we are looking at only 7 days of total fishing time. How can any type of gear survive under these conditions? Gear reduction and larger runs in other areas of the State as a result of enhancement are the only answer to our dilemma.

Any enhancement program will take many years to achieve the desired effect, so what then can we do in the meantime to survive as an industry? To begin with, we must do everything in our power at both the State and Federal levels to insure that we retain the right to harvest our present percentage of catch on the sockeye and pink salmon fishery controlled by the International Pacific Salmon Fisheries Commission. Without this, our industry cannot endure the years of heavy fishing restrictions in other State areas to allow enhancement to take place.

We must also take steps to be sure that the IPSFC is allowed to manage all the members of the industry as it did before the 1974

Boldt decision. Treaty Indian fishing regulations in IPSFC-controlled waters must be administered by the Salmon Commission and not the Department of the Interior or the treaty Indians themselves. Failure to do this will result in adverse effects on management control which have already started to threaten the record of this fine governing body.

In the current negotiations with the Canadian Government we have the opportunity to insure the right to these Fraser River fish that we have paid for so generously in the past in the area of conservation as well as financially.

Finally, we must employ a program of gear reduction immediately. This must not be done with a goal of merely changing the ownership of existing gear from one group of fishermen to another. It must be accomplished in such a way as to have a significantly reduced fleet size as its ultimate purpose. It is important that many factors be considered in this process. All members of the fishing fleet cannot be treated the same. The reef-net industry that I represent, for example, has reduced its numbers by over 40 percent since being limited by law to small specific zones in 1954. It was for this reason that the U.S. task force recommended that no mandatory gear reduction take place in the reef-net industry. The 1954 law made us the first members of the industry to be forced into gear limitation. This is not the case with other gear types in the State, which can readily be seen by checking State license records.

The option to sell out and retire from the industry must be made sufficiently inviting to attract the large number of licensed fishermen needed to make gear reduction a reality.

In closing, I wish to thank you again, Senator Magnuson, for the privilege of testifying at this hearing. It is my honest belief that only through a free exchange of views such as this are we going to ultimately formulate the plans that will save the salmon industry and the resource on which it depends.

Senator MAGNUSON. Thank you for your testimony. You make the point, that if we do have legislation we should reduce the time level.

Mr. GIARD. That is correct. Thank you.

Senator MAGNUSON. All right, George?

STATEMENT OF GEORGE JOHANSEN, PRESIDENT, WASHINGTON ASSOCIATION FOR FISHERIES

Senator MAGNUSON. This is George Johansen, president of Washington Association for Fisheries. Glad to see you, George.

Mr. JOHANSEN. Thank you, Maggie.

I wish you would—speak a little closer to the mike, it is awfully hard to hear you in the back of the room.

Senator MAGNUSON. All right, you get closer, too.

Mr. JOHANSEN. Mr. Chairman, and members of the committee, my name is George Johansen, and I represent the Washington Association for Fisheries.

The Washington Association for Fisheries appreciates the invitation to testify before the committee, and while we cannot agree with the proposed legislation in its entirety, we do want to express our deep appreciation to Senator Magnuson who has been the moving force

in trying to enact legislation which would in part seek to rectify some of the damage our salmon resource sustained because of the *Boldt* decision.

We still believe our original proposal that Congress should have clarified the Medicine Creek Treaty language after the *Boldt* decision and before it went to the U.S. Supreme Court, would have been a much better solution, but Congress chose not to act, thus leaving a vacuum, which made it possible for the Court to change the treaty language by interpretation.

S. 2163 correctly states that this proposed legislation is designed to overcome economic dislocations arising from the *Boldt* decision, and the U.S. Supreme Court ruling upholding the *Boldt* decision.

The problem before you, is therefore a problem created by the U.S. Government, and we believe, contrary to the provisions in the bill, that the cost of the program should be borne in its entirety by the Government and not by the Washington State taxpayers.

Whether or not the appropriations as outlined in the bill is adequate will have to be answered by State authorities, but it appears based on various statements, such as the task force set up by the U.S. Government and others, that it is inadequate to do the job.

One of the byproducts of the *Boldt* decision is Federal intervention in the Washington State fisheries. S. 2163, in order to ease the affects of the *Boldt* decision had on the salmon resource, will continue Federal intervention in the State fisheries.

The word "Secretary" and this includes the Secretary of Commerce, Secretary of State and the Secretary of the Treasury appears in the bill over 50 times.

Anything and everything the State and the Indian Tribal Commission may propose cannot be effectuated without the express approval of one Secretary or another under the terms of the proposed legislation.

While Government intervention probably cannot be avoided when Congress appropriates the money, we would be less than candid if we did not point out that the fishermen as such have had all the Federal intervention they are able to digest for some time to come.

In relation to the buy-back program, there are specific provisions for buying boats, licenses and gear, but specific language dealing with retraining and compensation for displaced fishermen, is absent. We are not only talking about tools of the trade the fisherman use to make his livelihood, but also about his chances of continuing to make a living in a different field. There are probably some who cannot be retrained and these fishermen must be compensated directly for loss of livelihood.

In absence of specific language dealing with this issue, it will be difficult, if not impossible for such fishermen to obtain just compensation for lost earnings.

In conclusion, we appreciate the efforts made by Senator Magnuson and others. We have outlined our position as we see it, and we hope that there can be some additions or amendments which would improve the proposed legislation so that it would be more effective in dealing with the effects of the *Boldt* ruling on nontreaty commercial fishermen.

Respectfully submitted by myself.

Senator MAGNUSON. George, I couldn't agree with you more, that the less Federal intervention the better.

Mr. JOHANSEN. I believe the bill refers 56 times to some Secretary or another, and you are just stymied, whatever you propose you have to go through a Federal channel to get approval.

Senator MAGNUSON. And you and I have had a lot of tough experience with Secretaries haven't we?

Mr. JOHANSEN. Yes, we sure have. The Secretary of Commerce wasn't going to let me in one time, if it had not been for you, I would not have been able to see him. And I appreciate over the years the long history you have had in dealing with the fisheries, Mr. Chairman, and I appreciate the efforts that this bill is trying to set forth. But I do believe the bill in its present form is inadequate to perform what it is assigned to do.

Senator MAGNUSON. The hard part of the bill deals with the money.

Mr. JOHANSEN. I didn't get you?

Senator MAGNUSON. You suggested it is adequate as to the amount of money.

Mr. JOHANSEN. Yes, I do.

Senator MAGNUSON. Everybody suggests that. We ought to have more money. But in relation to the buy-back program I don't know just how we are going to handle compensation for loss of earnings. How you are going to determine what the compensation is going to be for those who couldn't be retrained, or getting into some other field of endeavor? We appropriate a great deal of money to the Labor Department for retraining in all professions, in all lines of livelihood. As a matter of fact, this will have to be handled on that route. It is important that we look at it, but there are several other laws that are on the books. A great deal of money is appropriated for retraining, that includes not only fishermen but any person that loses his job through no fault of his own and can't be retrained.

We can't single out just fishermen.

Mr. JOHANSEN. Yes, we can. As far as this bill is concerned, it's because of the direct action taken by the Government that we are trying to get these people out of the fisheries, so I think it is proper to have some language in the bill referring to that particular problem which you haven't got at the present time, and also this would be a powerful incentive to get some of these fishermen to buy the program if they are going to lose their profession. There has to be something stipulated in the bill, and if it isn't in the bill, so help me we are not going to get any part of it, we are going to have to have something to refer to, that's in the bill, and we are entitled to it.

Senator MAGNUSON. All right.

Representative PRITCHARD. I think it is a pretty complete statement, Mr. Chairman.

The problem when you get Federal money, George, is there always comes a whole lot of strings with it, you know.

Mr. JOHANSEN. How about making a Federal grant without any strings attached?

Representative PRITCHARD. If we could get it through I would be for it.

Mr. JOHANSEN. Well, you could think it over.

Senator MAGNUSON. OK, George. Thank you very much.

Now we will recess until 2:15 p.m. We have lots of witnesses left.

AFTERNOON SESSION

Senator MAGNUSON. We will reconvene.

Our next speaker will be Mr. Earl Engman, chairman of the Salmon Committee of the Washington State Sportsmen's Council.

**STATEMENT OF EARL ENGMAN, CHAIRMAN, SALMON COMMITTEE,
WASHINGTON STATE SPORTSMEN'S COUNCIL**

Mr. ENGMAN. Thank you, Senator, and your distinguished committee for the opportunity to express the feelings and concerns of the sport salmon fishermen in regard to S. 2163.

In an earlier discussion of S. 2163, with Christopher Koch of your staff, there were some minor changes in the bill suggested, which I am sure Chris passed to the committee, so I will not take the committee's time to discuss them today.

In my testimony before this committee last August, the Washington State Sportsmen's Council strongly urged increased enhancement of salmon and steelhead in addition to those programs now existing or in the planning stages. We further urged that more emphasis be placed on chinook and coho, in salmon enhancement, so all types of fishermen would benefit. If not the hook-and-line fishermen would derive little or no benefit from pinks, sockeye, and chum salmon enhancement; meanwhile, having to divide the chinook and coho with the Treaty Indian and the non-Indian net fisheries, and having to pay our full share of fees and taxes to support the program.

The sport salmon fishermen feel that salmon and steelhead enhancement programs must be separate. We do not subscribe to any plan that will trade salmon for steelhead to the Treaty Indian tribes or anyone else. The sport salmon fishermen feel that, with an aggressive steelhead enhancement program and good management, the steelhead resource should be able to stand on its own.

Senator MAGNUSON. Would you elaborate on that a little bit more?

Mr. ENGMAN. The steelheaders have been trying to take the steelhead away from the Indians and when this failed, they, the steelheaders, started a movement to trade salmon, to the Indian, for steelhead. It wasn't a one-for-one trade, but a three, four, or more salmon, of the Indians' choice, for one steelhead. One suggestion was to trade 100,000 salmon for 3,000 steelhead.

There are 10 times more sport salmon fishermen than steelhead fishermen and the sport salmon fishermen's share of the salmon is small enough without trading them off for someone else's benefit.

Senator MAGNUSON. Thank you, Earl, continue.

Mr. ENGMAN. We urge that any funding for enhancement take into consideration a more fair share of the salmon to the recreational fisherman.

In regard to funding, the Washington State Sportsmen's Council has taken a position that the Congress of the United States and the U.S. Supreme Court is responsible for the predicament the State of Washington now finds itself in, and feels it is totally unreasonable that licensed fishermen and taxpayers of the State of Washington should bear the added cost of promulgating the decision of the Court.

It is only fair that the Congress should fund the entire program 100 per centum. S. 2163 calls for full funding of projects proposed by the Northwest Indian Fisheries Commission.

Turning to fleet adjustment—in order to obtain an expeditious reduction in the overall fishing capacity of the non-Indian commercial and charter salmon fishing fleets, a more realistic period of 4 years, instead of 10 years, should be considered. The Secretary of Commerce should provide full funding for this program.

One might wonder, if the funding of the fleet reduction program is not sufficient to reduce the fleet to the desired level, what will happen? Also, how will the moneys be dispersed among the fleet in order to obtain the desired results?

Briefly, these are our views and concerns on S. 2163.

Again, thank you for the opportunity to appear here today. If there are any questions, I will be happy to try to answer them.

Senator MAGNUSON. Thank you.

Our next speaker is Jerry Shreve.

STATEMENT OF JERRY SHREVE, CHAIRMAN, STEELHEAD COMMITTEE, WASHINGTON STATE SPORTSMEN'S COUNCIL

Mr. SHREVE. Thank you.

I am the chairman of the steelhead committee of the Washington State Sportsmen's Council.

The State sportsmen's council is comprised of 81 member clubs and about 12,000 people here in the State of Washington. Sportsmen and outdoors people. And we have taken several stands regarding the steelhead in the past by resolution and I am sure your office has copies of many of those. The most recent one we took, I would like to read, primarily the resolution that dealt with encouraging Federal legislation perhaps for some remuneration for getting steelhead off the *Boldt* decision.

The member clubs have delegates that represent them and depending on the size of the member club, they might have one or more delegates voting and the voting delegates—

Senator MAGNUSON. But from the sportsmen's council, as a whole, did they pass on it?

Mr. SHREVE. Yes, the general assembly.

I'd like to read the resolution we have, 979-5:

Whereas, the steelhead trout is the Washington State fish and steelhead trout is classified as a game fish by the States of Oregon, Washington and Idaho, and

Whereas, the steelhead trout has been protected from commercialization by Washington State Law since 1925, and

Whereas, over 150,000 Washington State fishermen annually pursue this champion fish through recreational effort and fees charged to sport fishermen for licenses and tags which generate a large percentage of the revenue required to carry on the steelhead trout hatchery program, and

Whereas, the steelhead trout has been declining in numbers due to dams, poor logging practices and general water quality deterioration, and

Whereas, the following states in our country have active sport fishing for steelhead trout, Washington Oregon, California, Maine, Alaska, Idaho, Wisconsin, Minnesota, New York, Vermont, New Hampshire, Michigan, and Indiana; 13 States.

Now, therefore, be it resolved that the Washington State Sportsmen's Council, in convention assembled at Ellensburg, Washington, this 9th day of September,

1979, support national legislation to make steelhead a national game fish through the immediate passage of laws by the United States Senate and House of Representatives.

The rest of the resolution addresses itself to who it should be sent to.

Currently we have an emergency resolution that will appear on our docket, during the March meeting, and it has some support already. It is submitted by the steelhead trout club and it has been co-sponsored already by the King County outdoor sportsmen and the Renton Fish and Game Club. It has been mailed to all the member clubs of the council and they will be receiving it, and hopefully co-sponsoring it. It isn't our official position yet, but if it is adopted it would encourage implementations of the Bonker bill, H.R. 6144.

Senator MAGNUSON. The problem is that decommercialization doesn't get the Indians out of it at all. They are still in. And the State game laws don't affect Indians. Now you mentioned a lot of States there I am familiar with, but if there was an Indian treaty, then the game fish doesn't apply. It depends on the treaty. And that is the problem we have with the *Boldt* decision, which I don't agree with at all. That's the problem. But Congress could theoretically by Federal law, usurp that right.

Mr. SHREVE. I believe that is what the resolution asks for and I think there are some important points to consider here. The steelhead is our State fish and as such it should be treated as a game fish; with dignity; and not be used commercially. We have a State flower, if you go on the Olympic Peninsula and dig up our State flower, there is a fine imposed for digging up the State flower. We have a State bird, if you harm our State bird, there is a fine imposed. I would like to see our State fish receive equal treatment.

Senator MAGNUSON. The State can make the steelhead a State fish.

Mr. SHREVE. It already has, sir.

And I think another important point to bring out is the fact that steelhead should be considered as a different fish from the salmon. Genetically, they are classified as a trout which is different than the salmon. They are not harvested commercially in the open ocean areas, as salmon are; they have an exceptionally high value as a recreation fish to recreational anglers. The value in this instance being 8 to 10 times the value when used for commercial purposes. The steelhead trout are not as abundant as the salmon species, and subsequently could be overfished by commercial gear.

From an angler's point of view, a concern for the resource is expressed in the fact that the native runs in some river systems are getting smaller, and dependent on hatchery planting programs for continuing viable fisheries is becoming more evident. Concern is expressed that the Indian fisheries have in the past overharvested the small resource with highly effective commercial gear. Examples of where this has occurred are in the Puyallup, Queets, Quinault, Upper Chehalis, and Skagit River systems. We are worried that with the net fisheries we will have similar outcome on many of our other important steelhead areas in the State.

During the past several years native American fisheries continued on the Columbia River system, despite the sports fishing closures to protect critically low steelhead runs moving into the Snake River system.

I would like to comment on two recent experiences that way. I had the figures for the native American catch through January 21, and for the Lyle River, over on the peninsula, a very small stream, almost a creek, it showed a total of eight fish off reservation. On January 31, a Thursday, the vice president of the Steelhead Club, John Kelly, was over there fishing, and observed a net being checked by a native American. There were six fish in the net; one bright fish and five dark; the one bright fish was kept, the five dark were thrown back dead. This is a waste of the resource! So with these figures through January 31; being eight fish, and seeing six on that one instance; it seems unlikely that these figures are true, and constitute the entire catch there. That is the point I was making there.

In a more recent example, closer to home, the Green-Duwamish River has been reopened for 1,200 additional fish. The workman at the Kenworth Truck Co., one noon hour, sitting on the bank having lunch, and watched two native Americans come up the river and check their net. There were 32 fish in the net; the 12 large fish were kept; the 20 small fish were discarded and thrown back. We feel this is a waste of the resource also, when they aren't counting all the fish they take in the net.

Senator MAGNUSON. That is enforcement, isn't it?

Mr. SHREVE. Yes it is, sir. But during the past 2 years I believe that the *Boldt* decision called for about \$1.5 million on creel census and enforcement and the last few times this has been left out of the budget and we have had to get it through the supplemental budget.

Senator MAGNUSON. There has been some testimony here, yesterday, that the enforcement money wasn't enough. They wanted more.

Mr. SHREVE. It has been very difficult to have enough personnel to make this streamside creel census and enforcement, and then when the money comes in late, the department has been forced, the Washington Department of Game, has been forced to lay off some of their creel census people at critical times. If the money comes in on the supplemental; it comes in late in the year and misses a portion of the winter season; where it is really required.

Senator MAGNUSON. The bill gives the direct enforcement to the State and if they don't have enough money to properly enforce the laws as they are now, the State legislature ought to appropriate it.

Mr. SHREVE. Some moneys came in under the *Boldt* decision, they have been slow coming in, also. I don't know if we got the entire amount or not.

Senator MAGNUSON. We would supplement the money for enforcement and give the money to the State. That's what I understand was proposed.

Mr. SHREVE. I would request the committee provide funding for fisheries research in areas to—

Senator MAGNUSON. I am just reminded that I put \$1.5 million last year in the budget to the department of game for steelhead enforcement.

Mr. SHREVE. I believe that is the correct figure, \$1.5 million.

Senator MAGNUSON. Maybe it should have been more. That was a Federal contribution, which I got on the appropriation bill.

Mr. SHREVE. With the combination native American fishermen with these nets, and the sports fisheries it is very difficult to monitor the streams.

Senator MAGNUSON. I believe that is the responsibility of the Department of Game.

Mr. SHREVE. Most of the Indians tribal departments have one fisheries patrol officer per stream; but Washington State game patrol officers are assigned to many streams. So I think we could have more possible enforcement in that area. I request the committee provide additional funding for fisheries research in areas to improve steelhead runs. The Washington State game department; because of the *Boldt* decision; has had a more difficult management job with more intensive management required on each of the river systems because of the added commercial Indian fisheries. Most of the Indian tribes have one or more fisheries biologists assigned to them, in many cases, one stream system. And like I said, the Department does not have that luxury.

The Washington Department of Game at the present time is only able to hire a few additional personnel to work during the winter season to conduct creel censuses. And at that time, only a few of the streams of the native Americans are monitored, in that respect. I request additional funding for more personnel to work on management problems on each stream system; I request a committee to support and provide action to decommercialize steelhead. With these two requests implemented; it may not be necessary to go into a large expensive enhancement programs for steelhead because more fish will immediately be available for recreational fisheries. And the wild stock may actually be able to again be utilized more. I request the committee to look into better water use planning at the many special projects located on rivers within the State of Washington, and have more consideration for anadromous fish runs, which would include steelhead. Examples are the Columbia River dams, the Snake River dams, and numerous Bureau of Reclamation irrigation projects located throughout eastern Washington. More conservation for the fisheries should be shown in these areas, such as the Snake and Yakima Rivers, which are prime examples of the situation at the current time.

I have enclosed a report entitled "Status of Steelhead Stocks in the State of Washington." This contains information that the Washington Department of Game presented to this committee in May of last year.

The portion on decommercialization, pages 19 through 22, were not presented to the Committee at that hearing since the subject of decommercialization was not open for discussion then. I would like to include pages 19 through 22 of that report at this time in my written report.

In summation, I would urge that the Senate study the possibility of adopting a bill similar to H.R. 6144, and separate these laws governing salmon and steelhead at the present time. I feel that the steelhead resource is declining in numbers and that the bill, such as you have here, S. 2163, is a very complex legislation that will take possibly years to get moved into law. For that reason I request that we go to a bill that would immediately take the pressure off the steelhead resource and allow it to rebound. I believe if allowed to do this, it could, with additional funding for enhancement and enforcement.

Senator MAGNUSON. That is a question we have to decide, whether or not to put the steelhead problem separately or put it in this bill. We have to make that decision.

Mr. SHREVE. I feel that S. 2163 has some real merit and there are some good thoughts there, but I feel, like you said earlier, there are numerous amendments required. I can count, myself, somewhere between 18 and 20 areas that I would prefer to see amended, and I think by the time we fight this through the Senate and through the House, the steelhead could be terribly declined in number, and I feel that we need some separation there to go ahead and get the steelhead provided for.

Senator MAGNUSON. There is a lot of opinion on that, sir.

All right, thank you very much.

Mr. SHREVE. I want to thank you for the opportunity to appear here.

Senator MAGNUSON. Thank you very much.

Now, Mr. Cliff Durbin, Steelhead & Salmon Council.

STATEMENT OF CLIFF DURBIN, NORTHWEST STEELHEAD & SALMON COUNCIL

Mr. DURBIN. Mr. Chairman, members of the committee and other Members of Congress, my name is Clifford F. Durbin, and I am president of the Northwest Steelhead & Salmon Council of Trout Unlimited.

I am here today to speak on behalf of our members in the State of Washington, and on behalf of the thousands of salmon and steelhead fishermen across the Nation that are member of our parent national organization, Trout Unlimited.

Our organization spoke before this committee on September 4, 1979, to express our solutions to resolve the complex problems that surround the salmon and steelhead resource.

My job here today is to express our feelings concerning the provisions of S. 2163 and the degree to which the proposed solutions contained in this bill address the problems.

We see a need for the enhancement of the salmon and steelhead resource. This legislation properly treats the problems of enhancement by requiring the development of a comprehensive plan with reasonable standards to protect the resource.

We believe, however, that separate funds should be established for steelhead enhancement in the amount of \$10 million in addition to the current funds contained in the bill.

We believe that there should be no requirement for State matching funds for enhancement. To require matching funds of the State and none from the tribes will deny the State the ability to participate.

We believe that the final approval for the comprehensive plan should be with the concurrence of both the Secretaries of Commerce and Interior.

We see a need for research on the salmon and steelhead resource. Indeed, we believe that it is the lack of research to guide management decisions that has attributed greatly to the decline of the resource.

Senator MAGNUSON. That point, on research, is unclear.

Mr. DURBIN. There has been too little in cases of anadromous fish.

Senator MAGNUSON. I know that you have to continue research to the highest point.

Mr. DURBIN. The problem with this bill, it puts responsibility for the funds involving research in the hands of those responsible for production of the resource, and in the tug of war between production and research, research will lose and the resource will lose. Therefore we proposed that separate funds be established in the amount of at least \$5 million to be administered by the National Marine Fisheries Service.

While this legislation does not deal with the overall fragmented nature of the management problem, it does provide a reasonable first step by requiring a comprehensive plan to be developed by the State and the Northwest Indian Fisheries Commission speaking as the voice of the tribes.

We would propose that additional national standards be developed to govern the management decisions of the Department of Commerce, the Department of Interior, the Pacific Fisheries Management Council, the International Pacific Salmon Fisheries Convention, the Washington Department of Fisheries, the Washington Department of Game, and the Indian Fishery Commission.

Senator MAGNUSON. Did you hear Mr. Lokken's testimony?

Mr. DURBIN. Yes, I did. The idea, I think, of trying to get an overall plan, while it sounds good, it sounds monumental to me, so whether we could get all these various agencies together to develop the plan, just boggles my mind. I think perhaps, though, if an attempt was made, that from that plan certain standards that would govern the entire anadromous fishery resource across the area, rather than addressing certain stocks and runs in this river, or that river, that I think the plan could be involved with, I think it has some merit. We definitely would be interested in participating in every effort in that direction, for purposes of this legislation, I think that a provision in the legislation calling for that as a study, in other words some special fund set aside to look at the overall national anadromous fish problem, might be appropriate, I don't know.

Fleet reduction, buy-back and gear-up. We consider the salmon resource to be overfished for commercial purposes, and we therefore support the State legislation required for a reduction of the current nontreaty fleet. We do not believe that such legislation would be passable, however, if State expenditures are required to satisfy matching fund requirements.

The net effect of this, when coupled with the tribal gear-up program, would be an increase in the commercial harvest capacity and this the resource cannot tolerate. Even with expected enhancement benefits.

We are not opposed to a tribal gear-up provided that a net reduction in the commercial harvest of salmon takes place.

It would seem to us that the best solution to this problem would be to remove matching funds requirements. This would allow tribal gear-up in terminal areas, as the tribes have expressed a preference for, which would be beneficial to the resource.

It is our belief that any Federal solution proposed must not only pertain in the *Boldt* case area, but must also include the Columbia River and its tributaries.

It is our belief that new negotiations with Canada are required to be undertaken if U.S. citizens are to benefit from this legislation. The paramount concern of the sports fishermen is the decommercialization of the steelhead trout.

Senator, the mounted sports caught steelhead trout will exist forever on the heart of the fisherman who caught it. It serves as a symbol and testified as to the nature of this magnificent game fish. It serves to remind all who see it of the need to protect this resource and the environment with which it lives. The sport caught steelhead lives forever.

Senator, the commercially caught canned steelhead trout exists for as long as it takes its captor to spend the money derived from its sale. The canned steelhead trout is a symbol of that which is dead and gone forever. It places no responsibility on those that consume it to protect it or the environment within which it lives. The canned steelhead trout is a symbol of what which will cease to exist.

This legislation fails to recognize the right of the steelhead trout to exist. We do not seek a solution that involves the abrogation of treaty rights. We seek a solution that recognizes treaty rights and merely compensates the tribes to forgo those rights.

We seek a solution that recognizes that the steelhead trout does not exist in sufficient numbers to justify a commercial fishery. We seek a solution that recognizes that the economic value of a sport caught steelhead trout far exceeds its commercial value. We seek a solution that restores the steelhead trout to its game fish status.

This legislation seeks to equate the commercial harvest of the steelhead trout with that of the salmon. As long as the provisions of this legislation fail to deal properly with the steelhead trout we cannot, and will not, support it.

If, however, the problems identified in this legislation and the steelhead question is properly treated, we could support this legislation as a reasonable first step.

It is our fear that the events of the past 6 years have shifted the attention of the various management agencies and that of the public from the real threats to the resource, which are the effects of environmental damage to spawning areas and estuaries, and the loss of water quality and minimum flows. We, therefore, see a solution to the current problem so that we can get on with the job of protecting the resource.

Mr. Chairman, I appreciate, and my organization appreciates, the opportunity to present our views to your committee. We look forward to working with you to restore the steelhead trout to its game fish status and to develop a rational solution to the salmon problem.

Thank you very much for considering our views.

Senator MAGNUSON. You suggest that we separate the steelhead problem?

Mr. DURBIN. No, we want specific points in the bill addressed to the steelhead problem, but our position is not \$1 per salmon until the steelhead question is properly accounted for.

Senator MAGNUSON. And not to separate it?

Mr. DURBIN. Not to separate it.

Senator MAGNUSON. But to have it in the bill, and deal with it properly?

Mr. DURBIN. To deal with it properly and keep them together.

Senator MAGNUSON. Or as you see it?

Mr. DURBIN. Yes.

Senator MAGNUSON. Any questions?

Mr. PRITCHARD. No questions; I appreciate his testimony.

Senator MAGNUSON. Thank you very much.

All right, Mr. Morrison. Is he here?

STATEMENT OF GARLAND MORRISON, STEELHEAD TROUT CLUB OF WASHINGTON

Mr. MORRISON. Senator, members of the committee, my name is Garland Morrison. I have been authorized to speak on behalf of the Steelhead Trout Club of Washington—the oldest continuously active conservationally oriented sports club in the State.

I have served on the Governor's salmon and steelhead committees and the State forest practices technical advisory committee, and served a number of years as steelhead chairman of the Washington State Sportsmen's Council. I also participated in most of the Presidential task force hearings in this area, that produced the Senate bill that we are here to talk about today.

As we view the present legislation S. 2163 we feel that it falls short of the legislative action that is needed to reestablish the thread of democratic freedom which originates in the U.S. Constitution. The State constitution is in consonance with its U.S. counterpart, and it seems that in the current conflict between State laws on equality and Indian treaty status, the Federal Government expects the State to negotiate with ill-defined tribes and bands of Indians as if the Federal and State constitutions did not exist. In fact, the U.S. Constitution says that only Congress has the right to make treaties and regulate commerce with the Indians. Thus, we feel that in order for the State constitution to be changed, the U.S. Constitution and/or the laws of the United States must be changed to see how an Indian is to be treated in a democratic society in the rest of the United States and conversely what kind of treatment can a non-Indian expect while within the Indian reservation borders.

Further, we would like a definition of what portion of Indian blood makes an Indian. We have heard everything from one-half Indian blood to such things as "anyone who thinks like an Indian."

We think this is a question that is to be addressed so that we understand clearly who it is we are talking to or who we are negotiating with.

If it is the intent of Congress to establish a special class of citizens in a separate Indian sovereign nation, apart from the States in which they are located, then a clear separate constitution relationship must be established or affirmed by Congress and some well ordered and defined manner. If this is done the State legislation and the apportionment of fisheries resources could be legally possible.

Senator MAGNUSON. Now on the question of who is an Indian, Senator Jackson's committee has attempted to define that as one-eighth of Indian blood. It is running away with itself so that even Indians want it changed. So this committee made a formula that tightens it up, which we all agree with.

Mr. MORRISON. We would welcome that, Senator, and we would certainly like to see that published so that many of us could understand. Perhaps question some of the people that are fishing today.

Senator MAGNUSON. And some of the Indians want it tightened up too.

Mr. MORRISON. I'm sure they do. We feel that the most important facet of the whole fisheries management problem that needs urgent congressional attention is the protection of the fisheries resources; this applies especially to steelhead trout since the native stocks are in an extremely depressed condition. Not enough research has been done to determine the impact of enhancement—planting—and to seeking answers as to why increased planting over the years has done little to improve the fisheries. In fact, the total fisheries harvest of both steelhead and salmon continue to generally decline while planting increases. Areas of legislation that would help rejuvenate the wild and scenic river bills, land use planning, and controls of pesticides in forests. Moratoriums on dam constructions that do not adequately provide for fish passage. And construction of adequate fish passage facilities on existing dams.

I am sure you know, Senator Magnuson, that native stocks of steelhead and salmon are the backbone of all anadromous fisheries.

Senator MAGNUSON. On the steelhead, as I understand it, the natural run of steelhead tends to be much larger than the hatchery run, and therefore are more desirable. The enhancement for steelhead should not be just hatcheries, but stream improvements. The bill must provide for that, and involve the things you mentioned.

Mr. MORRISON. We welcome that legislation, Senator. We feel that the hatchery fish may supplement the native runs, but generally they are too unpredictable.

Senator MAGNUSON. What I am trying to say is that enhancement doesn't just mean hatcheries alone.

Mr. MORRISON. Later on, Senator, I address my remarks towards that particular issue.

Our club is in the process of drafting recommendations to the departments of fish and game to close some rivers for extended periods to let the native runs build up.

We feel that that is needed urgently at this time. We do not believe that S. 2163 adequately addresses the issues that I have mentioned before. I am here today to offer suggestions related primarily to two topics, decommercialization of steelhead, and protection of native stocks of both steelhead trout and salmon.

We would like to point out that we support H.R. 6144, to decommercialize steelhead and we would like to gain its passage with other sports groups in the State. We would also recognize other forms of legislation might be needed and that is the purpose of our being here today, to share our views for your consideration and use as you develop your own legislative approach to these matters.

We would support a complete buy-out of the Indian fishing effort on steelheads since they only constitute 2 percent of the total salmonoid resource. As a function of this buy-out, decommercialization of the steelhead trout would be part of the enabling legislation. Personal and ceremonial uses by the Indians under this concept would be acceptable, I think for their use in that fashion, so I guess what we are saying is that we want to use the fish, as most of us do for personal use. Whereas

a possible alternative in exchange for stopping all the river netting, we would like to see the Federal Government set up Indian owned and operated off-river fish farms on a particular river system. This would allow all citizens to enjoy a hook-and-line fishery in the river while taking advantage of the salmon and steelhead homing instincts to provide a harvest for the Indian tribes.

Further, this would also achieve the second part of our goal and that is to protect the native stocks of fish, that would go up the normal runs, or the normal river system.

It has been suggested in the past, and is suggested again, that the possibility exists for trading one species of fish that is plentiful for one that is not. We still feel this may be a possible solution where we would trade salmon for steelhead as long as the salmon, and I heard Earl remark to this a moment ago, but as long as the salmon were introduced as an additive feature to the present available inventory. This is not to degrade or alter what we have at the present time, but it would be over and above whatever is there now.

In concluding my remarks, I would like to take a moment to dwell further on the steelhead conservation matter.

The native stocks of steelhead and salmon are rapidly declining and we see the need to close certain rivers in order to allow buildup of the runs. With the current interpretation of the treaty rights, we do not yet see how this action would be possible without abrogation of the treaties, especially since the only option available left to protect the resource is enforcement of the Endangered Species Act—with yet another Federal abrogation of treaty rights.

I want to take this opportunity to thank you, Senator Magnuson, for letting us express our views. We hope that you will be successful in your legislative action to resolve the problems, and we would like to know if we can be of any assistance to you or your staff. Some of us have been in this for a long, long time, as Congressman Pritchard can attest, and we would be happy to help in any way that we could help the committee.

Thank you very much.

Senator MAGNUSON. I appreciate your statement. As I said before, I think we have to address the steelhead problem within this bill.

Representative PRITCHARD. I think the main thing is that this subject has to be addressed to the total picture and it may make it more difficult, but I don't think we can duck it any longer.

Mr. MORRISON. Thank you very much.

Senator MAGNUSON. In other words, we don't need to have two bills for we may lose them both. We want them concentrated, so we can concentrate our efforts.

Mr. MORRISON. Thank you very much.

Senator MAGNUSON. Mr. Van Hoy. Is he here? Louis Van Hoy, of the Salmon Committee, chairman of the Poggie Club, of which I belonged to for many years.

STATEMENT OF LOUIS VAN HOY, SALMON COMMITTEE CHAIRMAN, POGGIE CLUB OF WASHINGTON

Mr. VAN HOY. My name is Louis Van Hoy and I am chairman of the Salmon Committee of the Seattle Chapter of the Poggie Club of

Washington. In the interest of saving time, and after listening to the speakers here today and reviewing the statements, the written statements, and all of the spoken words today, I would like to just simply say that we consider the bill is inadequate in many ways. One of our main concerns is that it fails to guarantee or provide for the protection of the rights for recreational and I like to use the term personal, salmon fishing.

We urge that the suggestions and amendments offered by the other recreational users and fishermen, with the exception of a couple of statements that come to mind is one that the paramount concern of the sports fishermen is the decommercialization of the steelhead trout, and the statement which I just heard, then again trading salmon for steelhead. We do not agree with that. We urge that those many suggestions and amendments made today on the inadequacies of the bill, either be adopted or the bill be allowed to expire.

Senator MAGNUSON. But they don't want the money to expire.

Mr. VAN HOY. I don't believe that we want the money with the strings that are attached to it, that has been said many times today, and we feel that that is what we are endorsing. We would rather not have the money than have all the strings attached to it, and the right to pass final judgment on the enhancement by a single individual. I believe that would conclude anything I have to say, and I would welcome any questions anyone might have.

Senator MAGNUSON. Did you hear the management proposal by Harold Lokken?

Mr. VAN HOY. Yes, I did.

Senator MAGNUSON. What do you think of that?

Mr. VAN HOY. I don't think that recreational fishermen have adequate part in that at all.

Senator MAGNUSON. That's what I wanted to bring out, that is going to be directed to the commercial fishing, mainly, it has a spillover effect indirectly into recreation.

Mr. VAN HOY. Well, I would like to continue a little bit in that I feel that recreational or personal use fishing, again, hardly have shared or had an opportunity to play a part in any of the decisions being made by any of the advisory councils, or management councils, or whatever. It is our opinion that we have very little voice in any of those decisionmaking commissions, or management councils or whatever, whether they be Federal or State.

Senator MAGNUSON. All right, thank you very much for your contribution.

Now, Mr. Ken McLeod, vice president, Interstate Congress for Equal Rights and Responsibilities. You have a big title.

STATEMENT OF KEN McLEOD, DIRECTOR AND ADVISER, INTERSTATE CONGRESS FOR EQUAL RIGHTS AND RESPONSIBILITIES

Mr. McLEOD. Mr. Chairman, the vice presidency is an error. I am a director and advisor but I am not a vice president. The vice president was sitting right behind me.

Thank you, Mr. Chairman.

In my opinion S. 2163 is the culmination of several commercial and noncommercial, but separate hearings conducted in Seattle last fall

by a Mr. Leitzell and the National Marine Fisheries Service on Northwest fishing problems, one of which I attended at 1700 Westlake North in the department's offices.

I came out of that hearing with the distinct feeling that it was the first overt attempt by Federal bureaucrats to take over control of Washington State's anadromous salmon and steelhead runs after the U.S. Supreme Court had shockingly approved by a 6-to-3 vote the illegal, unconstitutional, and traitorous *Boldt* decision. And now having had an opportunity to study S. 2163 that fear has been completely confirmed.

It was strongly hinted at that hearing by Mr. Leitzell that the recently enacted 200-mile fishery protection act gave the Commerce Department authority to regulate and control the anadromous fish runs in that area between the Federal 200-mile and the State 3-mile-limit lines. And being charged with that responsibility it would be encumbent on them to assure protection to the runs during their sojourns inside the 3-mile State jurisdictions and into freshwater habitats.

The sponsors of S. 2163 apparently felt they already had control of the Columbia River drainage runs of fish in their pockets, since the title of the bill embraces the salmon and steelhead resources of Washington State, and because section 2, paragraph (5), on page 3 reads:

The term "conservation area" means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin, and in the fishery conservation zone adjacent to the State, and subject to the jurisdiction of the United States.

To further confirm the allegations contained in the foregoing paragraphs the purposes of the bill contained in section 1 commencing on page 1 state:

In order to assist treaty and non-treaty harvesters of the salmon and steelhead with the conservation area established by this Act in the State of Washington to overcome temporary economic dislocations arising from the decisions in the case of *United States v. Washington*, this act authorizes the establishment of a cooperative program involving the United States, the State of Washington, the Treaty Tribes, and other appropriate parties to.

Then it goes to define 18 different meanings of various terms used in the bill and the scope and authority each implies, many of which are extremely galling to those who believe in the supremacy of the U.S. Constitution over the capricious whims of ambitions bureaucrats. The intent of the wording of the 10th amendment, which clearly permitted control of the fisheries to the State of Washington when it was admitted into the Union, because nowhere had that power been "delegated to the United States nor prohibited to the State of Washington."

The intent of that wording was fully acknowledged by even the great liberal Justice William O. Douglas when he wrote in the unanimous 8-to-0 opinion in 1968 in 391 U.S. 392—*Puyallup v. Department of Game*:

The treaty is in terms of the right to fish "at all usual and accustomed places". Moreover, the right to fish at those respective places is not an exclusive one. Rather it is one "in common with all citizens of the Territory." Certainly the right of the latter may be regulated. And we see no reason why the Indians

may not also be regulated by an appropriate exercise of the police power of the State. The right to fish "at all usual and accustomed places" may of course not be qualified by the State, but the manner of fishing, the size of the take, the restrictions of commercial fishing and the like may be regulated by the State in the interest of conservation.

Senator MAGNUSON. All should be treated equal.

Mr. McLEOD. Right.

It is unbelievable that although Justices Brennan and White in the 1968 case concurred in that unanimous opinion of the 10th amendment relating to State control of off-reservation fishing by treaty Indians, thereby upholding the Constitution and their oath to support it, they literally thumbed their noses at that oath when they voted just the opposite in 1979. Had they retained the integrity expected of Supreme Court Justices by the Founders of the Constitution, this hearing would be unnecessary today.

There are many other provisions in the bill, the legalities of which are highly suspect such as a few enumerated below:

Page 4, lines 4 through 7, which recognizes the Northwest Indian Fisheries Commission to coordinate tribal fisheries management, when this organization was nonexistent during the negotiating period of the treaties in the 1850's.

Page 5, lines 15 through 19, literally gives the Secretary of Interior or any Federal judge, regardless of location, the right to recognize any Indian entity as having usual and accustomed fishing grounds in the *Boldt* case area.

Page 6, lines 13 through 15, requiring the State to match Federal funds for various projects.

Page 9, lines 8 through 12, gives the Secretary sole authority to determine whether the State or the Northwest Indian Fisheries Commission shall carry out certain plans and standards.

Page 11, lines 16 through 20, limits the Federal share to all enhancement projects to 50 percent except for projects proposed by the Northwest Indian Fisheries Commission.

Pages 17 and 18, authorizing the Secretary to establish tribal projects for Indian commercial steelhead fishing operations.

My specific objections to the bill go on and on—too numerous to mention. In fact the entire measure smells to high heaven and should be rejected forthwith.

My motives in opposing this bill are in no way racially directed, but rather are aimed at those scheming lawyers, perjurious Federal bureaucrats and the Federal judges who have brazenly flouted their oaths of office to support the U.S. Constitution. Were it not for them, this controversy would be nonexistent.

And with this ad lib. five successive Supreme Court decisions—pages 3 and 4 of my September 4, 1979, testimony before this committee—in 1896, 1916, 1941, 1962, and 1968, upheld the rights of the States to regulate off-reservation Indian fishing under the negotiated treaties. Until this panel of the Supreme Court Justices threw the Constitution out the window by a 6-to-3 vote. It is about time for Federal grand jury investigation of those six perjurers.

Thank you very much, Mr. Chairman.

Senator MAGNUSON. OK. Thank you.

We thank you for your views. I know these gentlemen very well, and I wish this bill wasn't necessary, I wish we didn't have to do this.

Mr. McLEOD. I do too, we would—we went back over 6 years prior to this date, 6 years ago, we would be better off.

Senator MAGNUSON. This is the anniversary date of the *Boldt* decision. He sure stirred it up, didn't he?

Mr. McLEOD. He sure did.

Senator MAGNUSON. All right. We have Mr. Wayne Daley, president of the Federation of Fly Fishermen, Bainbridge Island. Lives in a good place.

STATEMENT OF WAYNE DALEY, PRESIDENT, FEDERATION OF FLY FISHERMEN

Mr. DALEY. Senator Magnuson, thank you for the opportunity to be here. My name is Wayne Daley, and I am a fisheries biologist speaking on behalf of the Washington Council of Federation of Fly Fishermen. The Federation of Fly Fishermen would thank you for holding these hearings in Seattle. It is frustrating to know hearings of importance are occurring out of the area, yet we cannot participate because of the costs involved. The federation is also pleased to see that action is finally occurring in an effort to protect and preserve one of this country's natural resources. Protection and preservation of our salmon and steelhead resources can only serve to strengthen our Nation morally and economically. We support this piece of legislation in general.

The federation's primary concern continues to be the preservation of the steelhead as a sport fish. Conservation and enhancement cannot be accomplished when the steelhead is targeted as a commercial fish. This legislation specifically allows for increased commercial fishing of steelhead. Management and enhancement of the steelhead as a commercial species must be stopped.

In fairness to all those concerned, we feel it is not the responsibility of the Congress to try and undo previous wrongs. The purpose for this legislation is to conserve and enhance our salmon and steelhead resources while assisting treaty and nontreaty harvestors. Our first objection is the placement of implementation of the bill into the Department of Interior. The Department of Commerce and National Marine Fisheries did an outstanding job as administrators and investigators of President Carter's task force. NMFS knows the parties involved and has been coordinating with them. With this legislature, the overall management is placed in the hands of an organization which is historically biased toward one of the concerned parties and has had little or no contact with the commercial or sports fishing interests.

Under specific item, section 203: Approval and funding of projects.

Senator MAGNUSON. Surely they have had very little contact with commercial fishing.

Mr. DALEY. Exactly.

Senator MAGNUSON. They claim that they have sports fishing at heart. Fresh water sports fishing is another story.

Mr. DALEY. Yes, sir.

The bill specifically states: "50 percent funding of all enhancement projects except those sponsored by the Northwest Indian Fisheries Commission." If the treaty Indians are sincere about preservation of the resource, perhaps they, too, should be willing to dedicate some of their profit from the commercial sale of salmon and steelhead toward enhancement. All participants should be required to match Federal funding.

Under title III, commercial fishing fleet adjustment, it appears that only the nontreaty fishing fleet is subject to gear reduction. This means that the overall fishing pressure can increase with increasing numbers of treaty Indian vessels entering the fishery. This is inconsistent with the objective of fishery enhancement. There must be limit on the total number of vessels, the federation is even more concerned with the fact that treaty Indian gearup is targeted specifically at the steelhead, a traditional sport fish until 1974.

And title IV: Tribal fishery development program, section IV specifically addresses loans for the purchase of the steelhead fishing vessels. We request that all funds for the enhancement of salmon fishery be contingent on the termination of all commercial steelhead fishing.

Senator MAGNUSON. All right, I thank you for that statement. You gave us some real and pertinent points. I think all commercial fishermen ought to be treated alike.

Mr. DALEY. Yes, sir.

Senator MAGNUSON. We thank you very much. And now, Mr. Joe DeLaCruz, where is Joe?

Joe, do you want to make a statement?

STATEMENT OF JOE DeLaCRUZ, PRESIDENT, QUINAULT INDIAN NATION; ACCOMPANIED BY CHRIS MORGENROTH, FISH COMMISSIONER FROM THE QUINAULT TRIBE; AND DR. GARY MORISHIMA, TECHNICAL ADVISOR

Mr. DeLaCruz. With me I have Chris Morgenroth, Fish Commissioner from the Quinault Tribe; and Dr. Gary Morishima, technical advisor to the Quinault Tribe. If there are any questions.

Senator MAGNUSON. All right.

Mr. DeLaCruz. Mr. Chairman, my name is Joseph DeLaCruz. I am here to testify on S. 2163 as president of the Quinault Indian Nation. When the administration-sponsored plan was first revealed this past August, we presented this committee with detailed testimony concerning the plan's shortcomings, yet we still held the hope that it would eventually form a much needed framework for facilitating implementation of our treaty fishing rights. Over the course of the past few months, however, I have come to seriously question the true purpose of the proposed legislation.

S. 2163 still conspicuously fails to provide any significant support for tribal governments to enable them to protect their fishing rights by better fulfilling the vital role they must play in the management and enhancement of the salmon and steelhead resource.

Unless the proposed legislation is amended to overcome this deficiency, passage of the bill could well portend a strengthening of both

Federal and State governmental powers at the expense of tribal governments. Such a result would clearly be detrimental to our rights to manage our resources and our people and would pave the way for further litigation and emotion-fueled controversy.

We are particularly concerned with the repeated use of the term "Northwest Indian Fisheries Commission" throughout the proposed legislation because it refers to an existing organization which has been established by tribal governments to fulfill certain specific purposes, principal among them, the coordination of intertribal technical assistance. Because the treaty right is tribal and the resource can best be managed on the basis of individual stocks, actual policy decisions and regulatory activities are performed through the actions and authorities of the separate entities of individual tribal governments.

The constitution of the present Northwest Indian Fisheries Commission would require extensive modification by tribal governments to enable it to serve some of the purposes intended by the legislation. We urge that the term "A Tribal Commission" replace the words "Northwest Indian Fisheries Commission" wherever it appears in order to avoid undue confusion.

In order for the many difficult problems which characterize the salmon and steelhead fishery to be resolved, the responsibilities and authorities of State, Federal, and tribal governments must be recognized and fully supported. It is our firm conviction that coordination and communication during serious trilateral discussions between these three governments holds the most promise for alleviating the problems which characterize the present situation.

Mr. Chairman, the Quinault Nation has repeatedly expressed its willingness to sit down and work out differences with State and Federal Governments through open and direct exchanges. In accord with our previous testimony on the administration's plan, we have actively sought to establish and strengthen channels of communication between our governments in order to begin to develop a mutually acceptable system of intergovernmental relations which would be capable of resolving fishing and countless other problems before they reach unmanageable proportions and crystallize positions.

We have consistently called for candid discussions and responsible dialog, but despite our most serious and sincere efforts to advance intergovernmental cooperation and resolve difference through mutual accommodation of interests, certain political personalities like Congressman Don Bonker and State Attorney General Slade Gorton refuse to give the process a real chance to work.

The President, the Governor, tribal leaders, leadership in the State legislature and you, yourself, Mr. Chairman, have publicly committed the governments of the United States and the State of Washington to respect and abide by the Indian treaties and the laws of the Nation, yet some individuals now appear to be attempting to further their own political careers by inflicting the public consciousness with wounds which are bound to fester into ugly confrontations. Within the past few months, the introduction of various bills in Congress and the State legislature to decommercialize steelhead, expand State jurisdiction over tribal fisheries, and sundry other administrative attempts to diminish tribal rights and authorities have exemplified the types of political maneuvering which heighten our concern over S. 2163.

While you, Mr. Chairman, have been an advocate of fair play, experience has proven beyond all doubt that there are others whose methods are founded in trickery, subterfuge and unilateral imposition of simplistic and totally inadequate "solutions" to complex problems at the expense of tribal governments. We strongly believe that unless the intent of the proposed legislation to facilitate the full implementation of Indian treaty fishing rights is made clear, S. 2163 may well become a vehicle for those who wish to subvert or abrogate tribal rights which stem from solemn treaties between our governments.

The chairman is aware, I am sure, that in the volatile climate of an election year, there are those who seek to further their personal political aspirations by increasing tension and polarizing the public through the creation of conflict between our peoples. Responsible leadership in State, Federal, and tribal governments must resist the temptation to fan the flames of confrontation politics and work together instead to resolve differences through cooperation.

And I have brought information here, if there are questions regarding steelhead, asked yesterday, if one of the panel members of the Northwest Indian Fish Commission, when they were up here, and the question was specifically regarding steelhead on the Quinault River. And I want to enter into the record our harvest management strategy for the benefit of sportsmen on the Quinault River. This happens to be this year, because we have been in several court advisory boards. Our guidance supported fisheries provides substantial improved fishing opportunities on Quinault stocks. Since we managed our commercial net fishery to harvest 50 percent of the available surplus, and the question was raised yesterday—taken 100 percent of the steelhead, we managed for 50 percent of the available surplus, sportsmen are afforded the full entitlement to an opportunity to catch off reservation stocks, plus an opportunity to fish substantially larger runs of originating on the reservations.

This year, for example, the total nontreaty entitlement is 831 fish, which originate in the Upper Quinault River. Quinault management is estimated to provide, however, a total fishing opportunity for sportsmen to harvest 3,445 steelhead, 854 off reservation stock, and 2,618 on reservation. The guide supported fishery on the Quinault River provides an opportunity for sportsmen to catch 415 percent of their legal entitlement. The tribe last night, because of the wild stock question on the Quinault River, and it has been one of our great concerns, closed out our net fishery about a month early, to get an adequate escapement of wild stocks into the Upper Quinault River. The Upper Quinault as an area, has been neglected. Far too long, because of overlapping jurisdiction and a lack of intergovernmental cooperation. The Upper Quinault has about 7 miles that is under State jurisdiction and the rest of it is national park. From Lake Quinault on down is within the Indian reservation, and we have made efforts for the past many years to go into some type of intergovernmental cooperation to try to address some of the problems that exist on the Upper Quinault River, and I believe it is only because of the type of hearings that you have been holding and because we have ended up in court we got court advisory board meetings, and we are continuing advocating intergovern-

mental relations that the State and the Park Service are beginning to show an interest to sit down and work on the problem mutually, with the tribe.

Senator MAGNUSON. I hope you can work out such problems in a congenial atmosphere—or try to work them out. Do you think there is a possibility of the Quinaults doing the same thing as the Federal Government has done with the Nisquallys and the State?

Mr. DELACRUZ. Yes, Senator; prior to the *Boldt*, the Quinault Tribe and our fishery people sat down with the State department of fisheries and the State department of game, in 1974, and developed a compact management plan for the areas that we had overlapping jurisdictions in, and it was because at that time an inadequate State law that the State couldn't go into that agreement, meaning the department of game and the department of fisheries, the attorney general advised them that they had no legal authority to go into an agreement like that with an Indian tribe, and the agreement never did get signed, but at least the salmon management, we have been trying to implement that plan and we sat down and jointly worked out.

Senator MAGNUSON. I haven't read the whole details of the agreement with the Nisquallys but I understand that it relates to salmon.

Mr. DELACRUZ. Salmon and steelhead. Not only a management plan but an enhancement plan, for the assistance that we have overlapping jurisdictions on.

Senator MAGNUSON. Now you believe that instead of dealing, as I understand it, with the tribal commission, that they ought to deal with each individual tribe?

Mr. DELACRUZ. No, I specifically put that in my testimony because I want to let this legislative committee clearly know that the NWIFC commission is a vehicle that is set up by the tribes, that we don't want legislation, the way it is worded, we will end up with another Bureau of Indian Affairs, and the Secretary of Interior has been catching a lot of trouble in these hearings right now. I think the responsibility goes back to the tribal governments, if we set up the vehicle, and a commission for the Northwest Indian Commission, or what, the Northwest Indian Fisheries Commission was a commission set up by the tribes, and of course we set that up during the time of the cases going on and it is a new commission, and as time goes on we are going to have to be making amendments as to how that commission operates, and I am afraid that if it gets tied down specifically in a piece of legislation we won't have any latitude to make any adjustments.

Senator MAGNUSON. You don't want the legislation tied down, in either the negotiations or the enhancement, if the input was solely the Northwest Indian Fisheries Commission. Is that right?

Mr. DELACRUZ. Right. The commission's ultimate responsibility is back to the representative tribal Indian governments, that it is there for.

Representative PRITCHARD. I think you want some vehicle or some grouping that can speak for the Indian tribes, and in a structure somehow you don't have that commission, never able to make a decision without going back and having each member agree to it, you end up in more trouble, more chaos.

Mr. DELACRUZ. I understand that, I say a commission, I think that the Indian tribal governments, in the 20 tribes, that set up the bylaws

for the commission, and said who the representatives are, and the authorities are, that that is their responsibility.

Representative PRITCHARD. That is fine, but it better be some group that can act and not worry with going back into where we have to deal with 19 different groups.

Mr. DELACRUZ. Right, we have problems there, and we will work them out. I think the commission has done very well, for something that had to be put together because of 19 tribes, and because of the problems that we were confronted with, through this whole controversy. But, just like everything else, governments go through a process of evolution and there have to be some corrections or amendments made. I just want to clarify that we don't get tied down with something.

Senator MAGNUSON. That is what we are going to do with this bill.

Mr. DELACRUZ. I have some additional things that I would like to submit for the record, again some of the enhancement projects, and the contributions of the treaty tribes, which means the Quinault Treaty area, the Quinault and the Hoh and the Quillaute, as far as our enhancement problems on the northwest coast, both salmon and steelhead, although I don't have the steelhead data in this report, I will submit it to the record, and probably be getting it in tomorrow. But between the three tribes on the coast and our projects are some of them is our own dollars, and we have made a major contribution to both the Pacific salmon and the steelhead.

Representative PRITCHARD. The question is there, where do the fish go, and the Canadians pick them all up, that's another subject, but you know what I am saying.

Mr. DELACRUZ. I think that really needs to be looked at.

Representative PRITCHARD. Thank you.

Senator MAGNUSON. Thank you very much. Mr. Chuck Voss?

[No response].

Senator MAGNUSON. There are other people who want to testify, if you come forward.

STATEMENT OF TED MOHLENDORPH, AQUATIC BIOLOGIST

Mr. MOHLENDORPH. I am Ted Mohlendorph, aquatic biologist, and I speak for Professor Branner, from the agricultural unit. Everyone here today has presented problems, I am here with some of the answers.

Senator MAGNUSON. All right.

Mr. MOHLENDORPH. First, I think there are too many people trying to grab too few fish. That your interpretation on enhancement, Senator, is what I feel my interpretation, you don't replace the fish habitat with a fish hatchery. Professor Branner and I have in mind and we have two current project on line now, the introduction of chum salmon into small, short streams, draining directly into Puget Sound that no longer has any salmon in it, and as you may know, the chum salmon is not competitive with the other salmon, because it migrates immediately out to sea, after the eggs sac is absorbed, but actually it only requires water from about the first of November to about the first of May, and this means that there are hundreds of streams throughout

the Puget Sound Basin that could be supporting chum salmon and nothing else, and it would not interfere with any steelhead fishing, any coho or king salmon fishery, that they would be solely used for production of chum salmon.

The chum salmon is a terminal fishery that does not wander off to Vancouver Island, and be caught by the Canadian trollers. It is a terminal fishery that you can get with a gillnet or seine, at the mouth of the stream, something that you do not need a diesel boat to go ahead and recapture the fish. It is possible, in the city of Seattle, that we estimate that in 10 years time we can produce 100,000 chum salmon a year. Within 10 years. Their commercial value would be over \$1 million, certainly more than that, and that there are six species of salmon, the five here in the United States, one over in Japan and Asia, but we also have the steelhead. What I would suggest is instead of a 50-50 division, anadromous fish, it is a 50-50 partnership, that the white man with his sports fishery and his high seas fishery take the kings, and the cohos, and the steelheads that are caught in the streams, and let the Indians catch the kings and the cohos and the steelheads for their own religious purposes, but the terminal fishery, the fishery that can be managed off the stream is the sockeye, and the pink, and the chum. This is a fish that the Indians normally caught that never went off Vancouver Island in a diesel troller.

This is part of the problem, and part of the solution, because there are too many user groups, or too few fish, and besides that the high seas troll fleet cannot be adequately, biologically managed, because when you catch a fish off of Vancouver Island, we don't know where they came from; the Columbia, the Sacramento, or the Fraser River. The chum salmon and the sockeye that have a good homing instinct, we can go ahead, know where they came from and know where they are going and where they are going to be. In the old days, back in the 1930's, when I went to work for the Fish and Wildlife Service in Alaska, we had something called a floating salmon trap. A floating salmon trap is the most effective catching fish, officially managing the run that there is because you can separate, you can open the trap and let them go, and the fish are caught out in the high seas, we don't know whether we are getting Canadian fish or California fish. That is part of our plan, Senator, just to go ahead and introduce chums, the chum salmon, and the pink salmon, and perhaps even your pink salmon, in streams where they no longer exist, or never were at. And this will give the Indian a chance to go ahead and compete with the white man with the fish that he has exclusively to himself, in a sense that his traditional fish, and it is easy for them to manage because it is not intercepted on the high seas by the troll fleet or by the Canadians.

In regard to the Canadians, our fish go into their waters, and their sockeye go into ours. It is a 50-50 trade, that will never stop them from going ahead and gleaning our kings and cohos because they would have to give our sockeye fishery. That is part of the solution. Another solution is the use of a product that has been produced by the Washington State Department of Game, in the Chehalis River, and I gave a report of this to Chris and I hope that the Senator will be able to read it all, because we have a plan, sir, where we can turn loose in excess of 50 million salmon a year, out of Lake Washington,

over 50 million. And we don't need a fish hatchery to do it. And I hope we have the time, sir, you will go and get the material from Chris and sometime in the future will call Chris for he has the same opinion, and thank you for the time.

Senator MAGNUSON. Thank you.
Now Mr. Wimmer?

STATEMENT OF TOM WIMMER

Mr. WIMMER. Senator Magnuson, Congressman Pritchard, I came here today, not to make testimony but after listening to quite a few of the remarks that were made here I felt, as a citizen, I was interested in the steelhead and it was my obligation to say something.

For these reasons I have fished for steelhead as a sports fisherman, I think the first one I hooked was in 1927, or thereabouts, so I have been at it a long time.

I have been concerned and interested in the resources of our State for practically as many years. I have been a member and officer of most conservation organizations in the State of Washington. Today I represent no one, except I am concerned about the steelhead. Your legislation alludes, or S. 2163 alludes to the steelhead in kind of an offhanded manner, in my opinion.

Senator MAGNUSON. Tom, it is not our legislation.

Mr. WIMMER. Well, I appreciate what you are saying, but you are going to have to forgive me for not being more specific.

Senator MAGNUSON. Although we presented it.

Mr. WIMMER. The problem that bothers me, there is no management tool as I see it from the State in this piece of legislation. The salmon and the steelhead are two different kinds of critters. They both must be managed differently, and I would suggest that S. 2163 be amended to include some kind of a management program for steelhead only. And the salmon can be taken care of in another manner.

I'll have to admit, down inside of me, I am in favor of making steelhead a decommercializing steelhead and making it a national game fish. However, I am also pragmatic enough to realize that isn't going to happen.

Because we all know Judge Boldt's decision says that the Indians catch 50 percent and the sportsmen catch 50 percent and whether you agree that 50 percent for each of us is too much for one or the other, is beside the point, because the decision has been made, and taken out of our hands, it is the law of America, that the fisheries be divided between the Indians and the white man, 50-50. The thing I am concerned about, as a sportsman, is how do I get my 50 percent, I am talking about I, but I am talking about all the sportsmen in the State of Washington, how do we get our 50 percent? You say "well, you have the game department to manage your end of the responsibility," and I think that is true, but there is a question in my mind, sir, if the game department can manage to see that our kinds of interests get 50 percent, that you can look at the controversy that has happened, say, in the last 25 years, as far as game, and management, that is game and Indian controversy, over the netting of steelhead, and true it was the law of the State of Washington that you didn't net steelheads, and there was

some decisions made that said the Indians could not net steelheads, so that kind of a controversy, wrestling the Indians back and forth, and putting them in jail, confiscating their equipment and their nets, and all the other stuff, has developed a tremendous impasse as far as I see it, the Indian tribes are concerned, and the game departments are concerned, in trying to resolve the complicated issues that face us today. Propagation managing these streams, and all these sorts of things. I doubt either one of them have very much confidence in the other.

Again, I assure you gentlemen, this is my opinion. I don't believe that these feelings are going to go away overnight, so these kinds of reasons, I believe, something further must be done, at the Federal level, to protect the resource, because again in my opinion, the resource, before we get down to really developing some good sound legislation to protect the steelhead, and even the salmon, in certain instances, I don't think it is going to happen unless it comes from the Federal Government, and one of the reasons I am concerned about our State not being able to manage the resource, and I look back, and our department of fisheries, again, I am not putting the blame on them, I think it is a matter of circumstances, these things develop.

In our department of fisheries, they sold more commercial fishing licenses than should have been sold, put too many fishermen out there on the resources for the limited amount of resources. It is like the gentleman before me said, there are too many fishermen for a limited amount of resource, and this is true. I think what happened in the last couple of years, about illegitimate commercial fishermen, fishing a resource to flaunt Judge Boldt's decision, it was deplorable, because all they did was just deplete the runs of fish.

When those kinds of things happen, I wonder again, if our State department of fisheries is able to manage that kind of a resource, particularly when you put a price tag on the salmon and you put a price tag on the steelhead, and the Indian is no different than the white man, or vice versa, they are both going to catch the last bloody fish as long as they can get 10, 15, or 20 bucks for him. Somebody else has got to tell them when they have to stop.

January 4, I sport fished the Skagit River with two friends of mine, who are pretty good steelhead fishermen. We fished all day, on January 4, we didn't turn one fish over. The water was in perfect condition, the water level was perfect, but there were no fish, so I was complaining to our guide afterward, and incidentally, it cost us \$100 a day to fish, and I am not complaining about the \$100 because it was a magnificent experience, but there weren't fish, and so I said to him January 4 "where are the fish," because normally around there are fish in the Skagit River, and he said "well, the problem is that from the Dalles Bridge at Concrete down to the mouth of the river, was solid with Indian nets, and the fish just can't get through." What I am alluding to is this, the department of game, where they are the keepers and the protectors of the steelhead, and if Judge Boldt's decision is carried out, the resources divided 50-50, some where some how that resource, the timing of the taking of their 50 percent and the mouth of the river, they can take the 50 percent much quicker than we as sportsmen, catching with a hook and line.

The taking of that resource, and at the mouth of that river, has got to be timed so every other day some of those fish get on through to

the other regions where we, as sportsmen, can also maybe catch our 50 percent share. As I understand the Judge Boldt decision that is the law of the land today. Why isn't it happening?

Now maybe we should be asking that of our game department, why isn't it happening? On the quota for the Snohomish River system, for the combined take of the Indian and the sports fisherman was 9,700 fish, in the last year, and this year, 9,700 fish. Then that 9,700 fish was changed to 15,000 fish. Now I don't know who said to change it to 15,000 fish, or for whatever reasons they said to change it to 15,000 fish, but I am wondering by the amount of people I see going up and down the rivers particularly of official nature are very few. How do they know how many fish are in that river? Can they increase the amount of takeable fish from 9,700 to 15,000? I question that in my own mind. The same thing we have with the Duwamish and the Green River system. The quota was 4,900 fish, all of a sudden it has changed to 8,000 fish. How did they arrive that they can increase the quota to 8,000 fish this year? I can understand if they have that information from last year, or the year that that cycle was supposed to return, but how do they know that?

That is why, gentlemen, I question in my own mind, if I am getting my 50-percent share of these sports-caught fish?

In this morning's paper I read that the Governor of our State, said that the State of Washington was perfectly willing and able of managing the fisheries resources of our State, and being an old fly fisher, I am trying to agree with her, but I have also been around long enough to know that a resource as important as fisheries, the State can't manage it, and it is a resource that is important to the Federal Government also, and the local people of the State, and if the State can't manage it, then I think the Federal Government must move in and help us manage it.

I think a good example of what I am talking about is this. One of my hobbies, down through the years has been water pollution control and I remeber fighting the issue back in the late 1940's and also the 1950's and all through the 1960's, trying to get certain industrial polluters out of the estuaries of our rivers, which was taking the hide right off our fisheries and killing most of them off. Many species of fishes will never return again because of the pollution we have inflicted on them, back in those years. And the State was always opposed, and in favor of water pollution control, except when we put the finger on industries that had a lot of political clout, and somehow between the cup and the lip, something happened, we didn't get water pollution control until 1972, when the Federal people moved in, and pollution control until 1972, when the Federal people moved in, and for the best interests of America they said you have got to do something.

They passed Public Law 92-500 and then upgraded that in 1977, and there are still some people in the State today who are trying to get out of doing what Public Law 92-500 says they must do. I say again, I am a state's righter, but I think the steelhead resources of our State, and the salmon resources of our State, mean too much to the State, and I, as a citizen, have always enjoyed chasing steelhead. It isn't as crazy as it might seem sometimes. I think it is up to the Federal Government to set the guidelines and directions, and that the States follow.

Now, I can visualize the State having a commission but the commission doesn't listen to all of the bad things and maybe States might say that they should do, and I think if they really looked at managing the resource, the salmon and the steelhead, whatever comes out as the best interests of that, you can fool those guys in the water forever, then I think we have done a good job.

Gentlemen, I am afraid that the legislation that you proposed, or that has been proposed, I should say, doesn't manage it. I would really rather have good management than a whole lot of money to manage the poor rehabilitation system. I agree that we need some money for rehabilitation and I think the first and prime requisite is a good management tool.

Mr. Chairman, I really appreciate coming to talk to you. I didn't expect to talk so long, but I am interested in this resource because it has been a part of me.

Thank you.

Senator MAGNUSON. Thank you, Tom.

All right, who else wants to testify? Nobody? Is Mr. Voss here? Would you like to testify? All right. Jack Jett wants to testify.

STATEMENT OF JACK JETT

Mr. JETT. Senator Magnuson, Congressman Pritchard, and Mr. Koch, my name is Jack Jett. My address is 10630 17th Avenue Northeast, here in Seattle. Thank you for the opportunity to appear.

My thinking has changed a little, after hearing Mr. Durbin, and Mr. Morrison, and Mr. Daley speak, and offer to trade salmon for steelhead. I am sorry that after challenging salmon fishermen to a high noon, none of them are here now, and Mr. Durbin is the new president of the Northwest Steelhead Salmon Council. Their fragmented 21 chapters include less than 2,000 members. Mr. Morrison is the voice of the Steelhead Trout Club of Washington. They have almost 100. Mr. Daley speaks for the voice of thunder for the fly fishermen, another 50. Of the half million sports fishermen in Washington, I think they are offering to trade salmon for steelhead Senator, speaks for itself, and I will try not to speak of that again, on this sixth anniversary of when Judge Boldt poorly informed by lawyers, who did not see the significance of what they were doing, that they set up that decision.

I ask you, and I will ask you to amend S. 2163, and knowing that it is the President's bill, via Mr. Andrus, and you are doing this thing as a powerhouse in the Senate, and I know that the thing is the same thing that was done by the Presidential task force, when Senator Mondale, then in Everett, set up that task force to take the heat off yourself and Senator Jackson and Congressman when you were under the gun for the demand that something be done about this fish situation. For the bill itself, and the matching quantity, gentlemen, I would ask that that be matching with 50-50, from whatever the Congress will do, would half of that money to come from funds supplied by the Bureau of Indian Affairs, for money that has been suggested in there, we are talking about the \$75 million, of which how many millions for buy-back of commercial fishing vessels, I ask

you to give them nothing whatsoever. We can legislate and help people for poverty or accident or disaster but not for greed. I also ask that no action be taken on this bill, and I doubt that there will be, knowing what it must go through, until our own State puts its own house in order, and merges our fisheries and game into one organization, simplifying it, increasing its effectiveness and cutting its costs, and that a 15-member board be set up within the State of which nine members would be sportsmen, one a commercial fisherman, one a packer, one a consumer, so there is representation, Senator, on this basis.

We have 500,000 to 600,000 sports fishermen, we are citizens and voters, we have approximately 2,000 effective commercial fishermen and approximately 1,000 tribal fishermen, and until something like that is done, until we have an effective enforcement agency, say a couple hundred men to stake out these fish buying plants, in the bottleneck where all illicit fish come, I don't think any amount of money will help any of us.

The bill as I see S. 2163 is a money saver in that I am afraid it was tossed out in a way that it could not be passed, for instance there is not time to get it through and it will be a cold day in hell when this legislation ever appropriates \$1 let alone millions for commercial fishermen and it is a great saving of money thus but I think it will be very costly politically, if something is not done to help us. I think that the answer to the problem, gentlemen, is a sharing of fish, and I think it will have to be spelled out by the Federal Government, and an adequate enforcement program.

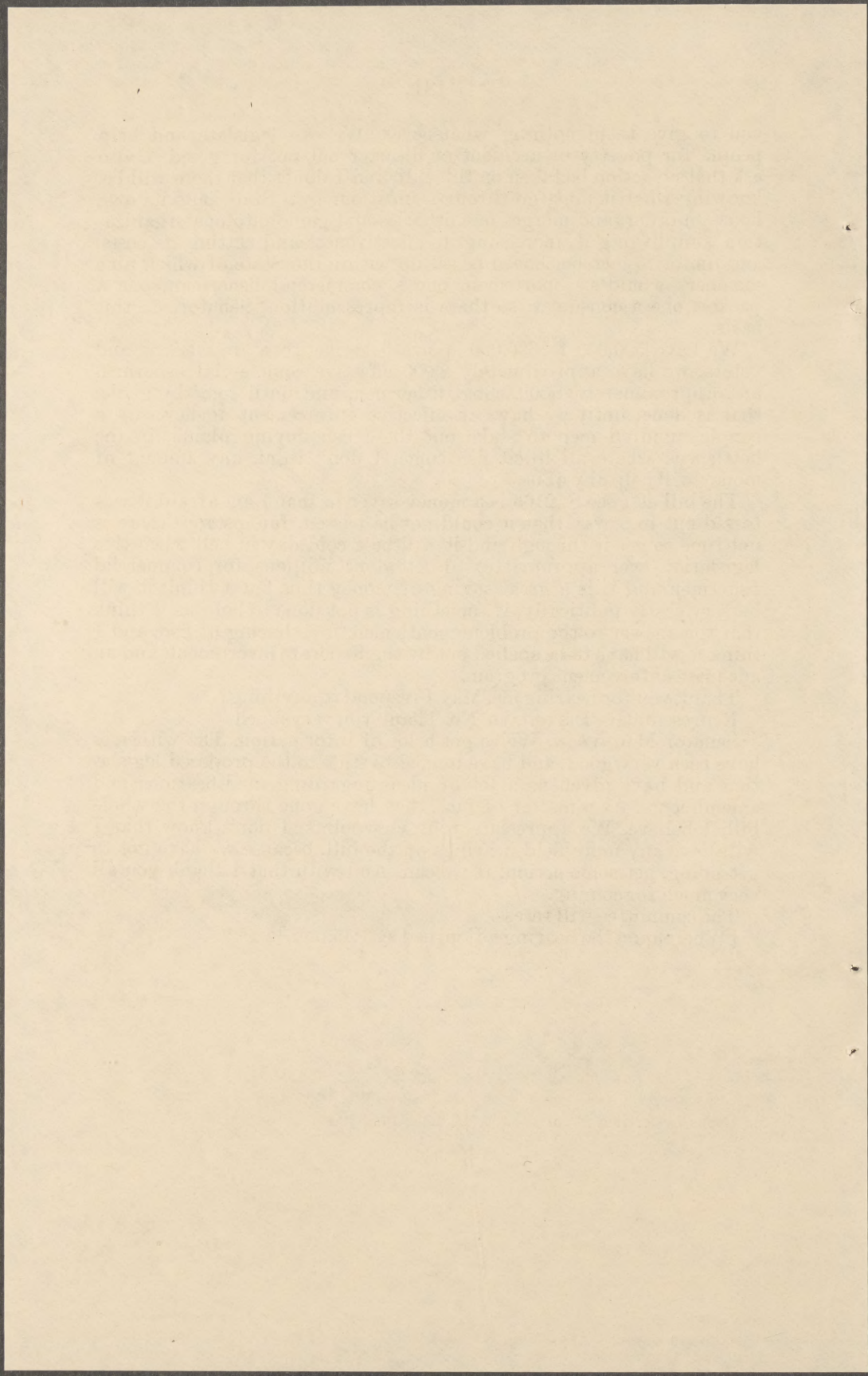
Thank you for hearing me. May I respond to anything?

Representative PRITCHARD. No. Thank you very much.

Senator MAGNUSON. We've got a lot of information. The witnesses have been very good, and have tended to stick to the proposed legislation and have given us a lot of ideas regarding modifications and amendments. As a matter of fact, they have gone through the whole bill, I believe. We appreciate your viewpoints. I don't know that I will have any more field hearings on the bill, because we have got to get going, get some action, if we can. And with that I thank you all very much for coming.

The committee will recess.

[Whereupon the hearing adjourned at 3:45 p.m.]



ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

BELL, INGRAM & RICE,
Everett, Wash., February 8, 1980.

Senator WARREN G. MAGNUSON,
Room 900, U.S. Courthouse,
1010 Fifth Avenue, Seattle, Wash.

DEAR SENATOR MAGNUSON: This office represents The Tulalip Tribes of Washington, an Indian Tribe created by the Indian Reorganization Act having governmental and sovereign powers within the exterior boundaries of The Tulalip Indian Reservation and recognized as such by the Department of Interior of the United States.

The attached statement is made for and on their behalf for the purpose of being made a part of the record of your committee hearings on Senate Bill 2163, above referred to.

Your inclusion of the same into the records of those hearings as part of the legislative history for the consideration of the Congress at the time of the bill's enactment would be most appreciated and it is hoped that the position taken in the attached statement will be reflected by a change in the definitional Section 2(18) concerning "Treaty Tribe" by the deletion of the words, "or similar entity" therefrom.

Please do not consider the attached statement as the sole comment of The Tulalip Tribes nor as being an approval or rejection of the remaining portions of the bill. It is not my intent to so limit The Tulalip Tribes in any further comments they may now or in the future have but to direct the attached statement only to the aforesaid Section 2(18).

Thank you for your courtesy.

Yours truly,

LEWIS A. BELL,

Enclosure

STATEMENT OF THE TULALIP TRIBES OF WASHINGTON

The Tulalip Tribes of Washington, an organized Indian Tribe, having governmental jurisdiction and sovereign powers within the exterior boundaries of The Tulalip Indian Reservation, Snohomish County, Washington, and being the owner and entitled to the exercise of treaty fishing rights under the Treaty of Point Elliott, (12 Stat. 927) do hereby request that the following statement be included in the records of the hearing on the aforesaid bill as part of its legislative history.

1. Specific objection

The specific objection contained in this statement to the aforesaid Senate Bill 2163, is to the definitional section thereof (Section 2(17) (18)), wherein the term "treaty" is defined as meaning any "agreement" and the term "treaty tribe" is defined to mean "any Indian tribe or similar entity".

2. Reasons for the objection

The foregoing definitions are too broad in that they contemplate agreements of any kind which could be contractual or by executive order or otherwise and either with federal, state or local governments. Further, the aforesaid definitions expand the concept of a "tribe" to include an undefinable and abstract organization called a "similar entity".

The history of the Indian people in the State of Washington after the signing of the Treaty of Point Elliott as well as all other Indian treaties was that though the tribes by Article IV of the Treaty of Point Elliott were required to remove themselves to the Indian Reservations, significant numbers of the individual members thereof (in some cases, the majority of the members,) either came to the reservations and shortly thereafter left or never came at all.

The records of the Bureau of Indian Affairs, Department of the Interior, clearly indicates that as many, if not more, of the Indian people remain at their

aboriginal Indian homesites and became members of the dominant white society and a labor pool so to speak, in the early, burgeoning, farming, lumbering and commercial fishing society of white people of the State of Washington.

It can be readily estimated that people of Indian blood not having tribal association with reservation tribes as recognized as of this date by the United States Department of the Interior, number in the thousands.

The Department of the Interior about 1917 attempted to determine the number of Indians of tribal blood descendency who were not on the reservations nor part of the reservation Indian society. It has been reasonably estimated that as of this date, such numbers would exceed 10,000.

The treaty fishing rights given by *United States v. Washington*, 384 Fed. Supp. 312, 459 Fed. Supp. 1020, affirmed by the United States Supreme Court, have judicially been declared to be tribal, as distinguished from individual, rights. In order to enforce and regulate those treaty fishing rights and to deal with the sovereign entities of the State of Washington and the United States in a political context to make the necessary agreements and arrangements to accomplish such enforcements, the tribes have had to exercise plenary authority over individuals and do have fishing ordinances with the power of enforcement over the individuals by criminal sanctions through decrees of duly constituted tribal courts. Short of such political and governmental power, the tribal individuals could and probably would destroy the fishery by overfishing and would not be able to be the depositories of substantial federal funds and responsibilities in relation to enhancement programs by reason of lack of organization and political control and police power.

The newly established federal court hunting and fishing rights vested in the treaty tribes is of tremendous economic value and numbers of individual Indians of various tribal blood ancestry have or are in the process of being formed into groups claiming treaty fishing rights under the decision of *U.S. v. Washington* in order that they may avail themselves of the financial bonanza those fishing rights represent.

These groups are not recognized by the United States, have no political power to interface with the governments of the State of Washington or the United States nor to enforce governmental ordinances and decrees upon their individual members or to apply criminal sanctions and penalties. In short, these groups have no political structure or power and recognition of them would place the individual members of these groups beyond the reach of the State of Washington or any now recognized tribe to enforce fishing regulations or give accountability for expenditure of federal enhancement funds or other grants.

The definitions of "treaty" and "treaty tribe" in Section 2(17)(18) are too broad. They are so broad as to make it possible for such groups as defined to receive federal funds and exercise federal treaty rights.

At the least, the Congress so defining "treaty" and "treaty tribe" as an "agreement" and as a "similar entity" lends to these groups credence of law and a semblance of federal recognition.

Such broad definition as indicated above is strictly contrary to any definition heretofore by legislation passed by the Congress and is strictly contrary to any definition of such tribes and treaties as judicially declared.

In *U.S. v. Washington*, above cited, Judge Boldt concluded that the treaties of Point Elliott and Medicine Creek do not confer treaty fishing rights upon such groups or 'similar entities' by Findings of Fact and Conclusions of Law and Order reported at 476 Fed. Supp. 1101. In that particular legislation, individual Indians of Snohomish, Snoqualmie, Duwamish, Steilacoom and Samish descent having organized to make land claims before the Indian Claims Commission, reorganized as the Small Tribes of Washington under the Native American Rights Act attempted to assert that they were successors in interest of the original tribes of which they had blood descendency and thus entitled to exercise of fishing rights of those tribes along with those same tribes which had sovereign jurisdiction and political control over the various reservation and which had been reorganized under the Indian Reorganization Act (48 Stat. 984).

This effort is continuing and is now on appeal to the United States Court of Appeals for the Ninth Circuit and its cause is Nos. 79-4447 and 79-4472 wherein Judge Boldt's ruling is being attacked and is sought to be reversed.

For the Congress in the subject legislation to declare that a treaty tribe can also be a similar entity is to open wide the doors to some 10,000 Indian people, more or less, who will claim fishing rights and enter into the fishery without the ability to enforce rules and regulations on their respective members nor the political status to negotiate with the governments of the United States and the State of Washington.

The result is chaos in that industry with severe administrative problems which may not be capable of solution and consequent cropping of so many anadromous fish as to endanger the species.

For the purpose of the record, the United States Supreme Court has defined what is an Indian "tribe" as being "unique aggregations possessing attributes of sovereignty over both their members and their territory," *Worcester v. Georgia*, 6 Peters 515 at 577; "a separate people possessing the power of regulating their internal and social relations," *United States v. Kagama*, 118 U.S. 375; *McClanahan v. Arizona State Tax Commission*, 411 U.S. 164; "a body of Indians of the same or similar race, united in a community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory," *Montoya v. United States*, 180 U.S. 261.

These definitions are the law and are inclusive. These definitions can be applied and administered.

There is no entity which is similar to a tribe and Governor Stevens in making the treaties involved did not deal with entities, he only dealt with tribes.

3. Conclusion

Therefore, it is submitted that Section 2 (17) should read as follows:

"The term 'treaty' means any treaty between the United States and any signatory Indian tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the conservation area.

"Section 2, (18) should be amended to read as follows:

"The term 'treaty tribe' means any Indian tribe with usual and accustomed fishing grounds in the conservation area whose fishing right under a treaty has been recognized and established by a federal court of law."

HOUSE OF REPRESENTATIVES,
STATE OF WASHINGTON,
Olympia, February 11, 1978.

Senator WARREN G. MAGNUSON,
127 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It has been brought to my attention that the proposed bill S 2163 that will provide for the conservation and enhancement of the salmon and steelhead resources of Washington State, assistance to the treaty and nontreaty harvesters of those resources, and for other purposes, specifically deletes the Columbia River drainage basin from consideration.

The Columbia River drainage basin constitutes one of the most valuable salmon and steelhead rearing areas in the State of Washington and I can think of no reasonable explanation to exclude it from consideration in this bill. Enhancement is needed badly and cooperative management is a long overdue requirement. Coordination between State and Federal agencies is a must and my constituents tell me that that has not happened in the past, is not happening now and they cannot see it happening in the future. May communities along the Columbia and southern coast of Washington State depend on the salmon resource for their existence and the exclusion of any assistance will signal their end as viable, producing entities.

It is my hope that you will consider the State of Washington as a whole in any Federal plan to relieve our commercial and sports fishermen from the burdens they are suffering under. All areas of the State have been impacted by recent court decisions and relief must be on an equal basis.

Very truly yours,

JOHN ERAK,
State Representative.

NISQUALLY INDIAN TRIBE,
Olympia, Wash., February 11, 1980.

Hon. MIKE LOWRY,
U.S. House of Representatives,
Washington, D.C.

DEAR MIKE: The Nisqually Tribe would like to express its sincere appreciation for your position and arguments in opposition to Congressman Bonker's proposal to decommercialize steelhead, H.R. 6144. Your position is responsible and

right, and would allow continuation of the progress that has been made toward cooperative management during these past six years. That progress is not only in the form of implementing the solemn treaty commitments undertaken by the United States in 1854 and 1855. It also includes the initiation, at last, of sound, beneficial steelhead management in western Washington.

Since 1974 we have made a great deal of progress in the establishment of cooperative fishery management in the Nisqually Drainage and elsewhere in Puget Sound. The recent signing of the Nisqually Cooperative Management Plan by the Tribe and the State is a land mark in that regard. Tribal co-management has been particularly beneficial for the steelhead resources. Tribal fisheries on steelhead have occurred continuously since treaty times, and have been at present levels for at least the past twenty years. Sport fisheries have occurred alongside these tribal fisheries for perhaps the last fifty years. The difference now is that, with the accurate reporting of tribal steelhead catches since 1974, we are finally developing the resource data base that is absolutely necessary to good management. We hope that sport catch reporting becomes easier and more accurate in the future, but for now tribal data is aiding both the Tribe and the Game Department in the management of the Nisqually steelhead resources.

Decommercialization of steelhead by a bill such as that proposed by Congressman Bonker would no more stop tribal steelhead harvests than did our battles with the Game Department during the 1960's and early 1970's. It would, however, cause us both to lose the only accurate data base available to both managers of Nisqually steelhead. This loss also would be a serious blow to the River sport fisheries since the Tribe's incentive to protect steelhead habitat and the native runs would obviously decrease. The sport fisheries have benefitted greatly from the Tribe's management and protection of native Nisqually steelhead and fishery habitat, and most of the regular, long-time fishermen in our area would agree with that.

As you know, the Bonker bill proposes a blatant abrogation of our treaty fishing rights. Since the Nisqually steelhead run concurrently with our most important salmon run (chum) for at least three months of the season, attempts to limit our steelhead harvests would also cause a taking of our rights to this other salmon species. And, together, they are the economic keystone of the Nisqually Tribe's fishery. The chum salmon and the steelhead are also the only true native runs left in the Nisqually that have not been overfished by the various marine intercepting fisheries and thus they hold a special cultural significance for the Nisqually Tribe. To say that we would vehemently fight a move to take our rights to either fishery can only be an understatement.

Your own approach to the fishery resource and political problems in western Washington is responsible, consistent with the United States' treaty obligations, and beneficial to all users of the fishery resources. We would be most pleased to work with you and to assist you in facilitating greater enhancement, controls on Canadian and ocean interceptions of our stocks, and other cooperative measures to solve these problems. We believe that the cooperative management plan for the Nisqually is a first positive step in that direction. And, we look forward to working with you on other measures designed to benefit the resource, the State and Tribal managers and the fishing groups, consistent with Indian treaty fishing rights.

Sincerely,

DORIAN S. SANCHEZ,
Chairman, Nisqually Indian Tribe.
BILL FRANK, Jr.,
Nisqually Tribal Fishery Manager.

NISQUALLY INDIAN TRIBE,
Olympia, Wash., February 12, 1980.

Hon. NORM DICKS,
U.S. House of Representatives,
Washington, D.C.

DEAR NORM: With your strong encouragement, the Nisqually Tribe and the State of Washington have at least concluded an agreement for the cooperative management of the Nisqually Drainage and its fishery resources. A copy of that agreement, and our letter to Senator Magnuson, is enclosed for your information.

This historic event is a new landmark in our progress toward true cooperative State-Tribal fishery management in Southern Puget Sound. It is a first

step, we hope, to the achievement of similar agreements and cooperation throughout Puget Sound. And, this agreement and the others to come, should make life much easier for both the resource managers and users who have suffered from the conservation problems and pressures from intercepting fisheries during the past decade.

The Nisqually Agreement calls for joint and cooperative management and enhancement of Nisqually fishery resources. It includes the management principles and fishery objectives of the State and the Tribe with respect to the utilization of Nisqually-origin fishery resources. We are as excited as the State about the prospects for new cooperation and joint management, and potential fishery production, anticipated by the agreement. We hope to be working closely with you in the future, and we will be seeking your assistance in facilitating our joint efforts to implement its terms.

Your support and encouragement over the past two and one-half years have been instrumental in keeping us working at this agreement. We wanted to take this time to express our deep appreciation for your time and efforts in this regard.

Sincerely,

DORIAN S. SANCHEZ,
Chairman, Nisqually Indian Tribe.
BILL FRANK, JR.,
Nisqually Tribal Fishery Manager.

ROUTE 4, Box 1462,
Hoquiam, Wash., February 22, 1980.

PACIFIC FISHERY MANAGEMENT COUNCIL,
526 S.W. Mill St.,
Portland, Oreg.

DEAR SIR: The "1980 Salmon Management Plan" fails to note that ocean salmon fishing does not harvest 100 percent of any individual river stocks of salmon. It is the nature of fish including salmon that only a percent of a particular school of fish will take a bait or lure at a given time. Depending on the age of the salmon, on the ocean conditions, and on the time of day, a high percent of a salmon school will not take a lure or bait. There are two authorities for the above information. First, any experienced ocean charter skipper or experienced salmon troller will verify the fickle biting characteristics of salmon. Second, Jon Rowley of Bountiful Ocean Supply Inc. has completed ocean fish "hook and line" studies that verify the above information.

Members of the "Federation of Independent Seafood Harvesters" have determined from Washington Department of Fisheries data that ocean trollers have caught between 14 percent to 21 percent of the harvested Washington salmon in the past 8 years. (Average 17 percent) The ocean trollers have harvested less than 10 percent of the upper Columbia River stocks that are the topic of much concern.

As the "1980 Salmon Plan" indicates, there is a high demand for ocean troll caught salmon because of the prime condition of the fish compared to river caught salmon that are actually in a state of deterioration. Let's face reality. Ocean troll caught salmon is comparable to prime rib of beef where river caught fish is like eating the old bull that is about ready to die.

Seventeen percent is the average of the ocean trollers salmon catch that goes to a fresh deserving market. Trollers cannot catch all of a particular river run because of the nature of salmon. Further cuts in the ocean salmon troll season will deprive the fresh market to a smaller percent of the harvest, will deprive trollers the opportunity to harvest for the deserving market, and will further concentrate the effort on stocks available during the open season.

Please return the ocean troll season to the 1976 regulations so the public is not deprived the 17 percent of fresh prime rib of salmon.

Sincerely,

DOUGLAS H. FRICKE.

STATEMENT OF THE FISHERIES RESEARCH INSTITUTE

Artificial enhancement of depleted Pacific salmon stocks has become the principal strategy to produce more salmon and manipulate the apportionment of the salmon catch among the various fisheries of the northeastern Pacific Ocean.

Such enhancement programs, especially at state and federal hatcheries, coupled with the recent expansion in salmon propagation by private enterprise, are expanding at rates that by the year 2000 approximately half of the world's supply of salmon could originate from artificial sources.

It has been estimated that approximately 2.6×10^9 salmon were produced and released into the North Pacific and its contiguous waters in 1978 by Japan, USSR, United States, and Canada. Extrapolating their anticipated production goals to the near future, we estimate that the number of hatchery-produced juvenile salmon entering estuarine and nearshore oceanic waters could treble within the next two decades. The proposed legislation under consideration by your Committee, S. 2163 would result in a further expansion of salmon enhancement much beyond the current investment in public hatcheries in Washington State, and would significantly add to the high density pulses of artificially produced juvenile salmon released into Puget Sound and the North Pacific Ocean each year. The current annual value of hatchery-produced salmon has been estimated at \$154,000,000 (386×10^6 juveniles $\times$ 0.01 survival $= 3.86 \times 10^6$ adults $\times$ \$40/fish). The enhancement program proposed by S. 2163 could, if successful, produce an added annual value of \$80,000,000 (200×10^6 juveniles $\times$ 0.01 survival $= 2 \times 10^6$ adults $\times$ \$40/fish).

As biologists specializing in studies of Pacific salmon, we consider S. 2163 severely deficient in supporting or directing scientific research on the biological and economic effects of such high-density releases of salmon into Washington's coastal waters, and we consider that the worthy intent of this legislation is in jeopardy without this research. Whereas essentially no coordinated research is being conducted on the effects of enhancement at this stage, and whereas the biological and economic success of the program may hinge upon optimum management policies based on such research, we believe it mandatory that a research and development program be incorporated into this legislation. The economic value of the combined enhancement programs could be approximately \$234 million; therefore, it would not be inappropriate to designate an amount traditionally requested for research and development—10 percent of market value (Natl. Plan for Aquaculture, Nov. 1979 draft), or at least \$20 million—to a research program designed to evaluate and generate management policies to ensure the biological success of the enhancement program.

A description of the total present research effort on density-dependent constraints on salmon enhancement, including the amount of funding, is not readily available, although such information is needed for efficient use of research support. As represented by H.R. 6225, such research is typically ignored or given minimal consideration in enhancement program funding. The apparent rationale for this policy is that such research would cause socially unacceptable delays in the salmon enhancement program. But we fail to see how enhancement can produce benefits commensurate with its costs without research into the mechanisms affecting density-dependent survival of salmon in the hatchery and the natural environment.

For example, understanding the mechanics of early marine growth and survival of chum salmon would enable managers to manipulate the densities and size compositions of juveniles released from hatcheries into the estuaries and nearshore environs according to the density and size composition of their prey resources, and achieve improved management of both enhanced and native chum. Thus, in conjunction with the usual documentation of fish size, age structure, and run magnitude of returning adults, hatchery release policies, and the fine tuning of these policies, could be designed on the basis of "optimum temporal and spatial packing" of salmon fry determined for the particular zooplankton resources in the nearshore and estuarine rearing habitat.

Similarly, the present enhancement strategies not only have the potential to be biologically and economically unproductive but also could negatively affect what is left of our important native salmon stocks through competition, predation, disease, and increased harvest rates. We do not yet have the data base to predict these effects. Yet such information is a critical component to coordinated management of both enhanced and native salmon populations.

Competing objectives and mandates of the agencies are involved in salmon enhancement and management; therefore, it is also apparent that no single governmental agency should be responsible for evaluating research proposals and allocating research funds. The newly formed Washington Salmon and Steelhead Research Council could best do this. However, a scientific peer-review system

would need to be established under the auspices of the Council, something the Council has not yet utilized in its evaluation of research proposals. Two Federal research bodies, Sea Grant and National Science Foundation, have a well-developed peer-review system that could be used as a model in allocating salmon research funds.

Whatever the vehicle for research funding, the mandate and research priorities must be established within the enabling legislation, especially if politics demands that a single agency be responsible for coordinating the research program. The following is a recommended list of research priorities which could serve as a template for such additions to S. 2163.

PRIORITY RESEARCH NEEDS FOR EVALUATING THE IMPACTS OF
AND CONSTRAINTS ON SALMON ENHANCEMENT

1. Mechanisms of estuarine and oceanic mortality.
2. The potential limitations of estuarine and oceanic carrying capacity.
3. Genetics of enhanced stocks and genetic-linked interactions with the environment.
4. Factors affecting growth, behavior, and physiology of salmon under propagation and of hatchery-produced salmon in the natural environment.
5. Nutrition and diets.
6. Disease and parasite control.
7. Influences of environmental variability on run variability.

Only through such research can we hope to guarantee that salmon enhancement programs will (1) be economically accountable in terms of return on investment of the tax dollar, (2) operate to minimize deleterious effects on native salmon populations and other interrelated estuarine and marine resources, and (3) be managed so that production policies can be adapted and manipulated according to the fate of experimentally structured hatchery releases.

Robert L. Burgner, Director; Roy E. Nakatani, Associate Director; Ernest O. Salo, Professor; Douglas M. Eggers, Resident Assistant Professor; Jeffrey E. Richey, Resident Associate Professor; Robert C. Wissmar, Resident Associate Professor; and Charles A. Simenstad, Biologist; all of the Fisheries Research Institute. Also Stephen B. Mathews, Associate Professor; and William K. Hershberger, Associate Professor, both of the College of Fisheries.

STATEMENT OF JACKIE PREST

Mr. Chairman, committee members, ladies and gentlemen, thank you for this opportunity to appear before you today on behalf of the Federation of Independent Seafood Harvesters, Inc. for the trollers of Washington and Oregon.

Mr. Chairman, I would like to begin by stating my organization's appreciation to you for the work you have done for fisheries through the many years you have served in the U.S. Senate. The fishermen I represent feel that the time has now come that again important pieces of legislation must be passed if the American troller is to remain on the ocean, if he is to remain a viable industry, continuing to make a living at his chosen profession. Senate Bill 2163 is an interesting piece of legislation in that it has been proposed by the Carter Administration to address the problems in Washington state fisheries caused by the so-called *Boldt* decision.

Mr. Chairman, while we understand the necessity for a piece of legislation that will address the problems between the inside fishermen and the inside treaty tribe fishermen, we again state as we have so often in the past that trollers fish outside of the three mile limit mainly and therefore must be considered outside of the case area. I would urgently recommend that you request of the Supreme Court that it undertake a hearing of this issue. We have been drawn in again and again by many groups including the Department of Interior, saying that the offshore fishermen must take into account the needs of the treaty tribes, but I refer you to the statement you sent me December 10, 1979 that was written by Eldon V. C. Greenburg, General Council of the U.S. Department of Commerce, NOAA, in which he says, and I quote, "the precise effect the various decisions will have on future management of the ocean salmon fisheries is not entirely clear since the issues involved were complex . . ." Further on I quote, "the effect the decisions will have on management of the ocean

fisheries in the future will undoubtedly continue to be subject to a good deal of debate. Once and for all we need clarity of the issue."

One point, however, is very clear. The District Court indicated that the Secretary and the PFMC must demonstrate in the administrative record how treaty rights were considered in arriving at a Fishery Management Plan and regulations governing the ocean fisheries. In formulating management measures in the future, it will be necessary not only to consider the impact of those measures on various runs of salmon of interest to the treaty tribes, but also to articulate in the management plan itself, or in a decision document, the impact of the adopted measure on such runs." He seems to be saying here that they want a commentary included in each salmon management plan that will state that inshore treaty tribe fisheries were taken into account and I believe that we have done that every time.

May I digress for a moment to cite the example of the Columbia River salmon fishery. Senator Magnuson, it has been proved beyond a shadow of a doubt that we do not impact the fish that go to the treaty areas. (See Appendix) The trollers impact is on lower Columbia River salmon, and I would like once and for all to lay this issue to rest. It appears that the lawyers for the Indian tribes, as well as the Indians themselves, in conjunction with other user groups, are throwing up smokescreens trying to make it appear that we catch those fish. They are using this to shut down our fishery when it is absolutely not true. I cite to you the request this year in the 1980 Salmon Plan that is now being distributed and under review for the 1980 public hearing process; the fact that there are two options, Option 8 for trollers and Option 5 for recreational fishermen. The justification for this being to protect salmon returning to the Columbia River for the upriver treaty Indian tribes. I can assure you that we have adequate documentation to prove that if they close down our salmon season, not only would they not get any more fish back, they could not reach their goal of inriver management allocation, namely 300,000 fish. We do not catch those fish, we do not fish on those fish and I am increasingly appalled, irritated and disgusted that they are using halftruths to ruin a wonderful way of life and a tremendous fishery.

To return to the document that I have been citing, I would like to comment on what Mr. Greenburg says regarding that same Columbia River agreement. "The question has been raised whether these judicial decisions have supplanted the sharing formula set forth in the Columbia River agreement, or have been superimposed on that agreement, an overall 50 percent allocation of the Columbia River salmon stocks. In our view, the agreement continues in force, and it operates in lieu of the 50 percent allocation formula in a ruling by the Supreme Court in Washington, D.C. However, the parties to the agreement chose another means of allocating fish; namely, by setting forth goals of inriver harvest of upper Columbia River salmon and apportioning the harvest in the river."

Again, I would remind you that this says, "apportioning the harvest in the river." We were not a party to that agreement, nor are we a party to the problems created by that agreement or the problem that created the necessity for that agreement in the first place. Mr. Greenburg goes on to say, "there is some ambiguity in the agreement as to the precise entitlement of the ocean fishery in any given year."

As you are well aware, Senator, part of the problems that have created that agreement have to do with the Columbia River dams that have destroyed the once great resource that went up the Columbia to the far reaches of northern Idaho spawning beds. It is absolutely impossible now for those great runs to be rehabilitated. I assure you that the American troller is as concerned as anyone with the destruction of those runs, but we are not willing to pay the full price of restitution of those runs, either to the State of Idaho, to the confederated tribes or to the inshore net fishery. Mr. Greenburg said, "there is some ambiguity in the agreement," and I believe the term ambiguity is the understatement of this whole document, when it is termed so loosely that no one understands what the resolution of the problem is to the point where the Department of Interior has undertaken to decide whether the 300,000 fish are a goal or a standard. It leads us to conclude that ambiguity is the certainly a fair choice of words. 300,000 fish that are set as a goal to some day return to the upper Columbia River is at this point absolutely impossible. You will note in the 1980 Salmon Plan that if they closed the ocean fishery completely, they would be more than 60,000 fish short of reaching 300,000 fish.

Mr. Greenburg also states that this was not settled in the Confederated Tribes issue and finally, in the last paragraph of this document he says "with respect to

future management decisions, some guidance on the role of the Secretary in regulating the ocean fisheries and the role of the Courts in reviewing such regulations was offered in orders issued by the 9th Circuit Court and Justice Renquist. These orders confirmed that under the FCMA it is the Secretary who has the discretion in management of the ocean salmon fisheries and I might add here that this does not mean that it is Interior's role, nor is it the Indians' role, nor is it the court's management authority. Under FCMA it is the Secretary who has discretion in management of the ocean salmon fisheries subject to the requirements of FCMA. Thus, a reviewing court's role is limited to determining whether, in the exercise of this discretion, the Secretary has, or has not, promulgated valid regulations. A court should not fashion or suggest a particular set of regulations as a remedy.

I want to thank you very much for getting this clarification from Mr. Greenburg as you promised you would do. I believe that it is a valid tool that we can use to expedite resolution of some of the problems. I went in to this at lengths as a preamble to the testimony that we will give today on Senate Bill 2163, because I believe that Mr. Greenburg's clarification of what happened last year has a bearing on the testimony that I will give on Senate Bill 2163.

Senate bill 2163 refers only to the Boldt case area, without bringing in the problems of the Beloni case area which is on the Columbia River. It also insists on 50 percent matching funds from the State of Washington, which we stand absolutely opposed to. This is a federal problem and must have federal restitution and rectification. We cannot look anymore to the State of Washington and its citizenry to supply the necessary remuneration to make restitution for the past problems of the Indian treaty fishermen. I would like to cite two examples: On the Columbia River through the years, there have been federal dams built one after another.

The Corps of Engineers has been less than cooperative in establishing means to permit fish passage up and down the Columbia and the once great spawning grounds in the State of Idaho are no longer of any use because the fish can't get there. Fish even find it difficult to get to the usual and accustomed Indian fishing grounds above the Bonneville Dam, and yet, the State of Washington is being asked to share 50 percent of the cost of restitution for these problems when they are federally created. Not only are the dams federally created, but the Indian treaties that have caused the present problems are federally created. We are totally against any bill that would require matching funds from the State of Washington for restitution, or that does not address the *Beloni* case area. I would like to discuss at length enhancement, past, present and future. (See appendix)

We know the amount of money for enhancement must be at least double to do an adequate job. Without proper restoration of the habitat, all of the enhancement in the world will not be successful. We have confined our remarks to coho and chinook because that is what we catch. We feel that it is fair that coho and chinook be enhanced as well as sockeyes, pinks and chums, and when that enhancement takes place, that the trollers be allowed the larger share of coho and chinooks, because those are the only two that we harvest to any significant degree. We feel that we have been penalized by having our seasons cut on coho and chinook when those are the only two species that we catch and there are the three other species that are heavily fished by the inside net fisheries and the treaty tribes.

Fleet adjustment—Title 3—Section 301A

We again reiterate that while, perhaps a buy-back program is certainly warranted to reduce fleet, especially the inside fleet, to make the indian fleet capable of catching a larger percentage of fish, I would like to cite some figures to you that we have come up with from last years fishery. In the document of the 1980 Salmon Plan, it shows that the upriver indians have gone from taking 21 percent of the catch to 48 percent of the catch, so I believe that has certainly shown that their treatment is much more equitable and they can catch chums, sockeye and pinks. We think therefore, that it is only realistic and fair that the trollers be assigned a much greater percentage of coho and chinook as their part of the resource. Upwards of at least historic (60%) of the coho and salmon resource and if there is a fleet reduction, I believe we can adequately come to equitable sharing adjustments.

This program must include the *Beloni* case area. Oregon fishermen have been impacted as heavily as Washington. Their claims for relief are as valid. We will not support any buy-back program that does not include fishermen residing

in any state that have fished off Washington and Oregon. Again, we totally support complete federal funding to the buy-back program. The state of Washington did have a buy-back program in which they did decrease the fleet to some degree. We feel that they have done their share. From here on out the funds should be appropriated by the federal government to enact this legislation.

I will be happy to answer any questions and again I would like to thank you for this opportunity to testify. I do not wish to speak to the issue of the indian tribal gear-up portion of the legislation. I believe it is appropriate for the indians to speak to this part, as I believe it is only appropriate for the trollers to speak for the troll part of this legislation.

Thank you very much, Senator.

ENACTMENT: PAST, PRESENT AND FUTURE AND ITS IMPACT ON YOU

What have been the contributions of artificial salmon programs to Washington state troll and ocean recreational fishermen? To better understand the contributions chinook and coho salmon enhancement have had upon the ocean fisheries, one should review enhancement as well as landing records.

Chinook landings for the troll fishery averaged 279,835 fish per year from 1935-1960. By 1965, landings dwindled to a mere 95,855 chinook. Other fisheries experienced similar declines. Total landings for all of Washington's commercial fisheries, which had averaged 550,457 (1935-1960), dropped to a mere 317,047 chinook by 1965. For coho salmon the picture was similar. Total commercial landings (1935-1960) were 1.103 million coho per year and had diminished to 340,685 fish in 1960.

Major enhancement programs were undertaken throughout the 60's and 70's. WDF plantings of salmon in 1960 were slightly under 78 million fish (mostly chinook and coho). By 1977, total plants had risen to nearly 179 million salmon per year. By 1978-79 some 371 million salmon (all species) were scheduled to be released in Washington waters.

How have enhancement programs impacted Washington's fisheries? Recreational landings of chinook, which were 198,000 fish in 1960, ballooned to 595,602 in 1975. Troll landings increased from a low of less than 96,000 in 1965 to over 361,000 in 1976. Total commercial landings increased as well (317,403 in 1965) to 781,555 by 1976. Coho, which had bottomed out at a mere .34 million fish in 1960 swelled to 2.162 million in 1976. Recreational landings of coho blossomed as well, from 122,700 in 1960, to a record 1.167 million in 1976.

Perhaps what is most interesting here is the fact that total landings of chinook and coho salmon by Washington's commercial and recreational fisheries have grown at a rate that nearly parallels Washington's enhancement programs. In addition, the early 60's were amongst the poorest years on record for the state's fishermen. After massive artificial enhancement programs went on line, catch averages of the mid-70's exceeded those of the mid-30's.

This suggests two things: (1) wild stocks were severely depleted by the 60's; and (2) artificial propagation programs for the two species have offset losses of wild stocks. This is particularly true when viewed from a standpoint of hatchery contributions to total catches.

If enhancement programs go as scheduled, by the late 80's or early 90's, chinook and coho production should increase by 305 and 224 percent, respectively. Or, in other words, chinook landings by Washington fishermen should triple, while coho landings should more than double.

HOW WILL ENHANCEMENT PROGRAMS IMPACT THE TROLL FISHERY?

Simple mathematics tells us that our landings should increase proportionately. For example, the troll fishery, which landed approximately 620,000 per year 1977-1979 could expect approximately 1.4 million fish by the 1990's. Since chinook landings were approximately 175,000 per year, trollers should be able to look forward to approximately 530,000 fish by the early 1990's. This is assuming stocks utilized for future enhancement are the same in behavior as those recently used for enhancement. One must also assume that the seasons will be no shorter than experienced from 1977-1979.

While the projected landings sound good, one cannot help but wonder what landings would have been under "normal" conditions. That is, seasons and regulations similar to those from 1971-1976. Under those sets of circumstances the troll fishery would receive approximately 870,000 chinook and over 2.3 million coho per year. Unfortunately, speculations over what could or should be do little to solve existing problems. Troll chinook landings (1977-1979) are down

43 percent, while coho landings are down 40 percent from the 1971-1976 averages. 1979 chinook landings were down 56 percent from previous averages when current prices are utilized.

WHICH AREAS CONTRIBUTE TO THE TROLL FISHERY?

What can we as fishermen expect in the future? Essentially two things, state enhancement totalling some \$30 million and federal enhancement, which may exceed the state program in terms of both finances and harvestable fish.

CURRENT AND PROJECTED INCREASES IN SALMON PRODUCTION

As of 1978, some 53.52 million coho and 101.12 million chinook were being released in Washington waters (including the Columbia River). Upon completion of WDF's \$30 million enhancement program, an additional 28.08 million coho and 94.97 million fall chinook will be released annually. If Congress comes through and provides funding for the task force enhancement program, an additional 86.86 million fall chinook and 38.15 million coho will be produced in the state's waters due to enhancement programs. In addition, spring and summer chinook plantings will increase by 28.31 million via state and federal programs. To summarize:

[In millions]

	Coho	Chinook
Recent enhancement.....	53.52	101.12
Projected:		
State.....	28.08	117.18
Federal.....	38.15	92.96
Total.....	119.75	312.26

Troll landings will depend upon what type of stocks will be enhanced and upon which districts provide these stocks. A breakdown as to which districts in the state contribute to the troll fishery is as follows: (Data based upon 1978-1979 enhancement programs and 1977-1978 average landings.)

District	Fish produced (millions)	Harvestable fish (thousands)	Percent of harvestable fish by district	Washington troll share (thousands)	Troll ¹ share (percent)	Troll share by district (percent)
FALL CHINOOK "O" AGE						
1. Lower CR.....	54.45	381.1	53.5	72.1	85.0	18.9
2. Upper CR.....	3.6	25.2	3.5	4.7	5.5	18.6
3. Willapa.....	5.5	55.0	7.7	1.6	1.9	2.9
4. Grays Harbor.....	.69	6.9	1.0	.2		2.9
5. North Coast.....	2.87	28.7	4.0	.8	1.0	2.9
6. Straights.....	.91	7.3	1.0	.2		3.3
7. Nooksack.....	3.31	59.6	8.4	2.5	2.9	4.2
8. Skagit.....	11.73	35.2	4.9	1.2	1.4	3.3
9. Still/Smo.....	5.37	66.1	9.3	.5		3.3
10. South Puget.....	22.70	68.1	9.6	.5		.7
11. Hood Canal.....	4.79	28.4	4.0	1.0	1.2	3.7
Total.....	116.92	711.6		85.4	98.9	
SPRING/SUMMER						
1. Lower CR.....	7.16	458,240		41.24	171.9	8.9
2. Upper CR.....	5.37	171,840		15.50	27.0	9.0
3. Willapa.....						
4. Grays Harbor.....						
5. North Coast.....	.23	8,280				1.6
6. Straights.....	.14	7,420				2.0
7. Nooksack.....						
8. Skagit.....	.06	2,400				.3
9. Still/Sno.....	.10	4,000				.3
10. South Puget Sound.....	.39	23,010				1.2
11. Hood Canal.....	.20	13,800				.4
Total.....	13.65	688,990		56.64	98.9	

¹ This is the contribution of the district to total troll landings.

On chinook landings (falls), 85 percent of troll landings come from lower Columbia River hatcheries; 5.5 percent originate in upper Columbia hatcheries. Therefore, the Columbia River hatcheries account for 90 plus percent of all Washington troll landings; 72 percent of spring chinook landed by trollers are lower Columbia River hatchery stocks, and 27 percent are upper river hatchery stocks. Therefore, 99 percent of all troll caught springs originate in the Columbia River.

In terms of total chinook landed by the Washington troll fishery that are released in Washington waters, the lower Columbia River accounts for 114,200 fish or 76 percent of all chinook landed in Washington by the troll fishery. This is important because these stocks originate outside of treaty areas and there is no conceivable way they can be caught by the Indian fisheries. They do not pass through the treaty area.

District	Coho (millions)	Percent of total production	Fish harvestable	Washington troll landings (thousands)	Troll percent of run	Percent of troll landings
1-----	27.32	-----	1,366,000	236.3	17.1	35.2
2-----	2.25	-----	58,500	3.1	5.3	.5
3-----	3.50	-----	175,000	29.8	17.0	4.4
4-----	2.08	-----	83,500	19.0	22.7	2.8
5-----	3.25	-----	162,500	41.1	25.3	6.1
6-----	1.14	-----	83,220	21.2	25.5	3.2
7-----	1.73	-----	140,130	27.6	19.7	4.1
8-----	2.96	-----	224,960	28.6	12.7	4.3
9-----	3.71	-----	237,440	39.2	16.5	5.8
10-----	7.81	-----	952,820	160.1	16.8	23.8
11-----	3.82	-----	361,020	65.1	18.0	9.7
Total-----	59.65	-----	3,846,020	671.2	-----	99.9

On coho, all districts contribute well to the troll fishery, except the upper Columbia River. Therefore, any enhancement of normal release coho would benefit the troll fishery. The lower Columbia River, South Puget Sound and Hoods Canal contribute over two-thirds of all coho landed by the Washington troll fleet. However, increases in Toutle River and Elkomin coho would be extremely beneficial to the Washington troll and ocean recreational fisheries. For example, if we could get the state to release an additional 15 million (early normal) coho into state waters, trollers would gain an additional 130,000 coho per year. ($15,000,000 \times .00865 = 129,750$)

Oregon and California trollers and recreational fishermen would gain an additional 285,000 coho (a portion of which we would deliver into the state of Washington). Washington ocean recreational fishermen would gain an additional 127,500 fish, principally in S.W. Washington (Columbia River and Grays Harbor).

Enhancement of these stocks would benefit Washington troll and recreational fishermen to the tune of a total of 257,250 coho per year, while Oregon and California troll and sport fishermen will gain 285,000 fish. If a gillnet fishery were allowed, an additional 144,000 coho would be landed per year. The Canadian share would be only 41,250 coho.

On the other hand, were stocks from Grays Harbor north used, Canadians (troll and sport) could expect about 300,000 coho, while Washington trollers would catch but 195,000¹ of these fish. This is a good argument to enhance the early normal release coho runs. Enhancing these stocks would tend to spread out the troll fishery up and down the Washington and Oregon coasts, rather than concentrating effort on the northern Washington coast. There may be some benefit to the chinook fishery as well, because during the early and middle 60's when these early stocks were commonly used in Washington hatcheries, troll chinook landings were but 174,000 a year, compared to 280,000 (1935-60) and 280,500 from 1970-76. This indicates when these stocks are available the troll fishery reduces effort on chinok salmon off the coast of Washington.

¹ This is higher than the amount shown for Toutles, but would be more than made up in terms of landings by Washington and other U.S. fisheries. Troll contribution would be 173,000 versus 195,000 for Washington fishermen.

ENHANCEMENT OPTIONS

(1) Current enhancement programs release about 102.12 million fall chinook, 13.65 million spring and summer chinook and 53.52 million coho into Washington waters a year.

(2) The state of Washington's enhancement program is scheduled to provide an additional 94.97 million fall chinook, 22.21 million spring and summer chinook and 28.08 million coho by the 1990's.

(3) If Congress will fund task force enhancement programs, an additional 86.86 million falls, 6.1 million springs and summers and 38.15 million coho will be produced by the early 90's.

(4) Total of the two programs means a 305 percent increase in chinooks and 224 percent increase in cohos.

(5) Based on 1977-78 seasons, trollers could expect about 534,000 chinook and 1,356,300 coho per year. If we were to somehow get back our traditional seasons, our total landings would be approximately 884,500 chinook and 2,309,400 coho per year.

(6) Even with scheduled enhancement, 50/50 allocation can not be accomplished as the bulk of the enhancement programs will not provide enough fish to treaty areas. That means one of two things: (1) further reductions or (2) get the Indians off the reservations to where the fish can be harvested, otherwise we go broke.

(7) Enhancement programs do not include any significant plans to enhance wild stocks. This would be a "stickler" for all fishermen, unless we can modify enhancement plans or get agencies to manage for hatchery stocks (as they did for 25 years!)

(8) The best bets for troll enhancement would be: Enhance lower river fall chinook three times over present rates. (Other areas just don't contribute to troll fishery). Enhance early Toutle and Elkommin normal release coho in lower Columbia River at least 15,000,000 a year. Increase Grays Harbor and Willapa Bay early normal coho at least 10 million a year in each harbor. Go along with increases in other districts and make sure there are no cut backs on coho (normal) in South Sound and Hoods Canal districts. Go along with state and T.F. enhancement proposals.

Enhancement for Willapa-Grays Harbor: 20 million early coho normal release, 10 million in each area would contribute the following:

	Washington troll	Washington sport	California/ Oregon	Net fisheries	Canadian
Grays Harbor.....	129,750	127,500	285,000	330,400	41,250
Willapa Bay.....	179,000	59,400	184,000	144,000	245,800
Total.....	308,750	186,900	469,000	474,400	287,050

For enhancement goals, trollers should seek a minimal doubling of Lower Columbia River fall chinook "O" age class releases.

Double Lower Columbia River enhancement of normal release coho (to 55 million, the same as recommended by WDF and task force proposals). Increase Willapa Bay normal release coho production 8.2 million fish per year; Grays Harbor by 5.2 million normal release coho per year. This would require an additional .5 million coho beyond WDF and task force recommendations for Grays Harbor and 2.9 million above Willapa enhancement projections.

We would suggest that at least one half of the total Lower Columbia River increased coho production be normal release toutle and elkomen coho stocks. Buy TF and WDF packages as recommended (other than the above changes).

Because the majority of our chinook landings are Lower Columbia River fall chinook and since they do not go to treaty areas, they should not be included in allocation schemes. A similar case can be made for the Lower Columbia River gillnet fishery and the ocean recreational fisheries.

It may be advisable to seek a doubling of coastal and Puget Sound (treaty areas) coho stocks, as well, in order to justify our existence. The fishing effort must be spread out, and the more stocks to fish on the better.

Since the bulk of our coho landings are hatchery stocks (at least 90 percent) we probably impact wild stocks very slightly. This may be particularly true in light of the fact that wild stocks make up 10 percent of all known coho production in Washington, yet according to the data only about 2.2 percent of troll landings are comprised of wild stocks. The troll fishery, more so than any other fishery, has a tendency to target on hatchery stocks.

STATEMENT OF ROBERT FINZER

Thank you, gentlemen, you have reduced the ocean trollers time on the ocean by 50 percent for the chinook only season, and 62 percent for the all specie season, all in the name of conservation and to help the treaty Indians receive their allotted share.

The treaty Indian catch in the last 4 years has been 64 percent. As compared to 35 percent by the non-treaty net fishermen of the upper Columbia River fall chinook. This doesn't include any steelhead, which only treaty Indians can take and sell commercially.

In the Puget Sound net fishery, the ratio of chinook taken by the treaty Indians was 59 percent in 1979, with a ratio of 63 percent for coho. It looks like your reductions are more than working.

Gentlemen, when are you going to really address yourselves to enhancement and do something to help all fishermen? The 200 mile bill was passed to insure all U.S. fishermen a viable industry. To date only restrictions have been placed on American fishermen, not only in the salmon fishery, but in the trawl fishery also. They now have limits on perch, while at the same time, the foreign fishermen are having the incidental catch on perch raised.

I have never heard the Council take a stand, or even give an opinion, on various plans for enhancement. The Department of Interior's proposal of \$92 million for the State of Washington, of which \$35 million is for enhancement of the salmon fishery and \$57 million is for taking the treaty Indians out of the salmon industry is one example. I believe that if the \$57 million was spent for enhancement there would be no need to buy out fishermen, and the treaty Indians could afford to up-date their fishing gear from profits—not tax payers money.

There is mitigation money for Columbia River runs that has never been put to use, there are still poor logging practices in use, stream blockage, and many other detrimental aspects to the salmon fisheries that the Council hates to address itself to, not just restrictions on the ocean troll industry.

If you don't have the authority or the determination to do the complete job for the fisheries of the United States of America, then the whole 200-mile concept must be completely re-worked.

 NISQUALLY RIVER STEELHEAD MANAGEMENT PLAN

INTRODUCTION

The Nisqually Indian Tribe, as a co-manager of the steelhead trout resources of the Nisqually River, recognizes the importance of developing a cooperative and coordinated steelhead management plan. It has become apparent, through discussions with the Washington Department of Game (WDG) and local sport fishing interests, that there are many areas of mutual interest sharing common and compatible goals for the Nisqually drainage steelhead resources.

It is the purpose of this proposal to identify these common interests and goals and to begin a coordinated steelhead management policy to benefit all parties.

OBJECTIVES

That all parties recognize the following as major objectives of a coordinated steelhead management plan for the Nisqually River:

1. To recognize the importance of maintaining the genetic integrity of the Nisqually native winter steelhead stocks (December-April).
2. To significantly enhance the late February-April sport fishing opportunities on the Nisqually River (a time period during which sport fishing conditions are at an optimum) and to maintain a high quality sport fishery.
3. To maintain the existing Tribal river fishery targeted at native chum salmon from December through mid-February; to recognize that selective harvest techniques do not exist and that incidental December through February steelhead catches will continue to the extent necessary to fully utilize Nisqually native chum.
4. To utilize all available naturally producing areas in the Nisqually drainage.
5. To bring steelhead management in the Nisqually drainage into the overall fisheries management planning already underway between the Tribe and the Washington Department of Fisheries.

PROCEDURES

The Nisqually Tribe proposes the following procedures to achieve the objectives stated above:

1. Collection of native steelhead broodstock at intervals between mid-February and April to ensure that fish are included which are representative of existing natural entry patterns. The following methods will be utilized for collection of broodstock:

(a) Hook and line capture utilizing local sport fishing interests from March through April. (Methods similar to those used by the WDG and the Hoh Tribe, which involves the tethering of sport caught fish, will be employed.)

(b) Beach seining of the mainstem Nisqually River by Tribal fisheries staff from mid-February through April.

(c) Trapping at the existing Muck Creek Weir/Trap facility maintained by the Tribe from mid-February through mid-March.

2. Maturation of adults, incubation of eggs and rearing of fry to yearling size will require long-term facilities commitments which the Tribe does not currently have. There are several options, however, which are available to supply the facilities necessary to implement this plan:

(a) Incorporate plans for steelhead into the proposed Clear Creek-Hill Creek salmon hatchery or Muck Creek salmon rearing station (as proposed in "A Joint Statement From the State of Washington and the Nisqually Indian Community," February 6, 1980).

(b) Work with WDG to identify space in existing rearing facilities and/or identify potential river side channel or lake pen-rearing localities within the Nisqually drainage.

(c) Work with WDG to identify new hatchery sites for joint Tribal/WDG funding and development.

Note: No matter which of the above options is chosen it is understood that all management decisions relating to rearing methods, release sizes, etc. would be agreed upon by all parties.

3. Release locations, as well as annual broodstock collection programs, would be developed so as to attempt to maintain the genetic integrity of the wild stocks enhanced. This requires that native gene pools be maintained through one or more of the following mechanisms:

(a) Annual shifting of broodstock collection locations.

(b) Collection of broodstock in areas of the mainstem which will increase the chances of selecting fish representative of the drainage.

(c) Collection of broodstock at consistent locations established through imprinting of smolts while still maintaining genetic variability through continual introduction of native males representative of the wild population.

4. Assessment of survival, catch, and straying rates will be accomplished through an integrated program of coded-wire tagging of smolts. This program will be aimed not only at the enhanced later mid-February through April segment of the run but will also include the December through February run harvested incidentally during the Tribal chum fishery. Sampling of micro-tagged adult steelhead during the Tribal fishery from December through February can easily be accomplished via existing Tribal programs. Sampling of the sport fishery, however, is also desirable and will require the aid of WDG. Steelhead smolts can be micro-tagged at three possible locations:

(a) In the lower Nisqually River following capture in a Tribal inclined-plane (scoop) trap which is being developed for use this spring to collect juvenile salmonid outmigration information.

(b) In the proposed cooperative Muck Creek adult/juvenile weir project planned for the 1980/81 season by the Fisheries Assistance Office (FAO) of the Fish and Wildlife Service.

(c) At the facilities developed for this plan.

GOALS

The Tribal goal for this program is to capture a minimum total of 30 males and 30 females using the combined methods and locations that have been described above. This will provide approximately 90,000 to 105,000 eggs. Accounting for

20 percent mortality prior to release, and a return rate of 3.5 percent, adult steelhead returns of 2,500 to 2,900 additional fish could be expected. The current 15 year average sport harvest for the combined months of February, March and April in the Nisqually is approximately 1,100 steelhead.¹ Depending upon numbers of fish necessary for escapement purposes the sport harvest for the same time period could be more than doubled with this plan.

GENERAL PRINCIPLES

1. The Tribe, WDG and sport fishing interests recognize the necessity of cooperation and coordination in the management of the steelhead resources of the Nisqually River.

2. That historically there has existed a natural balance between the native Nisqually late chum and early winter steelhead stocks; that it is desirable to maintain this balance solely through natural production except that rehabilitative efforts will be permissible.

3. The Tribe is committed to focusing its steelhead fishery on those steelhead caught incidentally during the harvest of chum salmon.

4. The Tribe recognizes that coordinated management of the Nisqually River steelhead will involve the Tribe permitting non-Indian sports fishing to occur on that portion of the Nisqually River within the boundaries of the Nisqually Reservation.

5. All parties recognize that exceptional circumstances may require temporary modification of these principles.

"WHO IS DON BONKER AND WHY ARE SPORTSMEN SAYING ALL THOSE NICE THINGS ABOUT HIM?"

(By Hank Adams, National Director, Survival of American Indians Association, Post Office Box 719, Tacoma, Wash.)

On January 31, 1980, Don Bonker wrote in the Seattle Post-Intelligencer that "an effort that recognizes the fragile status of a species before it becomes endangered * * * is preferable to wringing our hands in frustration until this unique species has vanished from the Northwest."

Mr. Bonker obviously is concerned for, and refers to, his own species: the die-hard radical racist in public office. To save his own skin, he has chosen again to target on the Indian and to sacrifice the steelhead in the process.

Any congressional Act to totally prohibit the commercial fishing of steelhead by treaty Indians would be but a monument to irrationality and unreasoning racism.

Mr. Bonker dishonestly claims that the 1974 *Boldt* decision changed the status of steelhead, and thus exposed the resource to "indiscriminate, intense net fishing pressure" and the jeopardy of extinction. This fully misrepresents the facts.

A series of State court decisions throughout this century had previously determined that the State game classification for steelhead did not apply to Indian caught fish or reservation resources. On December 30, 1970, before proceedings commenced in the *Boldt* case, Superior Court Judge Bartlett Rummell of Pierce County ruled that the State game law against net fishing for steelhead in off-reservation waters was "not shown to be reasonable and necessary" for conservation. That determination was later confirmed by the U.S. Supreme Court in the *Puyallup II* decision.

Harvest levels in 30 primary Western Washington steelhead streams preceding the *Boldt* litigation were reported in a Game Department compilation dated May 11, 1971. The 5-year average sportfishery, 1964-69, provided 200,781 steelhead annually. The combined Indian net fishery in the 1970-71 season produced a catch of 42,558 steelhead.

A decade earlier, the Washington Legislature had passed a law in similar vein as the current Don Bonker proposal to "prohibit the commercial shipment of steelhead." In its April 1961 internal departmental newsletter, the Game Department advised that it had aided the "organized sportsmen of the state" in sponsoring the law, knowing it was probably "unconstitutional". The Grays Harbor Superior Court subsequently found it so. But, as the newsletter declared, "In this fight, the Department and sportsmen have 'nothing to lose'."

¹ 1961-62 through 1975-76 WDG punch card estimates.

In the same communique, WDG Fisheries Management Chief Bob Meigs wrote:

"We have heard sportsmen express the fact that the Indians are taking all of the fish. This is not true, but the fact that they do not take more is due to water conditions rather than attempts at conservation. Obviously the nets have to be removed during periods of high water when there is heavy floating debris. Additionally, nets become less efficient during periods of low clear water, although this latter is somewhat offset by reduced movement of fish during these conditions."

He included statistical information for the Puyallup River which demonstrated substantial steelhead escapements past the Indian net fishery in the lower portion of the river. The 5-year (1955-60) seasonal averages showed an annual sports catch of 10,986 steelhead (88.63 percent), and an annual Indian take of 1,409 steelhead (11.37 percent). The sports harvest is upriver from the Indian set nets, as are spawning grounds.

The mentality which now guides Don Bonker flows from the stream of racism which has prevailed throughout this century in refusing to accept an Indian treaty right to harvest salmon or steelhead. An expression of its overriding objective was written in 1940 by the Game and Fisheries Departments:

"The sincere desire of the State to provide for the welfare of the Indians, although that is the responsibility of the Federal government, has been attested by repeated special privileges given them to take fish for their own food. The legislature specifically provided in 1915 that on any river bordering on or running through a reservation, Indians could fish in a prescribed manner to a distance of five miles on either side of the reservation boundary for their own use. "Without exception, these special privileges granted to the Indians to fish for personal use, under plea of dire necessity, have been violated by commercial sale of fish caught."

"Another point should be made clear. Nearly every year petitions come in from one Indian tribe or another, asking permission for special privileges of fishing for personal consumption off the reservation. Always the same argument is employed, that the petitioning Indians are destitute and on the verge of starvation. As has been so often pointed out by the Office of Indian Affairs, the Indians are wards of the Federal government and that government is therefore solely responsible for their welfare. It is the viewpoint of the State that the Federal government should fulfill their obligations to the Indians, keep them from facing starvation, and do so in a manner which will not destroy the natural resources of the State."

"The State is willing to make provision for such tribes as were overlooked in the original treaty-making and for which the Federal government disclaims all responsibility. * * * The greater part of the troubles in which the State conservation agencies find themselves are essentially not between the State and the Indians but between the State and the Federal government, or more specifically, the Office of Indian Affairs in the Department of the Interior. * * * The habit of numerous individuals and tribes of selling commercially fish which have been caught under special privilege of the State for food purposes only, can be adequately handled by the police agents of the State, if the Indian Agents did not actively support the violators."

"It is essential that the present unrestricted commercial exploitation of salmon and steelhead by Indian groups * * * be subject to * * * measures applied by the State * * *. In the application of uniform conservation practices to commercial fishing within reservation areas * * * the Office of Indian Affairs could likewise wield a constructive influence. No question applies to manner or extent of fishing for personal use, the sole concern being those fish caught for sale and shipped to markets off the reservation."

Through most of the State's history, it has sought to prevent Indians' commercial fishing for either salmon or steelhead! In the near half-century that steelhead had status as a commercial food fish for non-Indians, the State actively sought to prohibit Indians' use of any other salmon species, whether caught on or off reservations, for commercial purposes.

Prior to World War I, Indian Agents constantly complained to Washington, D.C., ironically, that the State was only willing to allow treaty Indians a chance to catch steelhead. They pointed out that the State acted to outlaw Indians' net fishing in the streams, and that only steelhead could be expected to strike a baited hook in many Indian fishing areas, where several salmon species ceased feeding when entering the estuaries and streams.

Time after time, the State has succeeded for varying durations in removing Indian tribes from their fisheries. But repeatedly, the federal and state courts have ultimately restored the Indians to their rights and a share in the fish resources.

When Puyallup Indians followed a court decision to return to their fisheries in 1953, Game Director John Biggs and Enforcement Chief Walter Neubrech provided the following reports to the State Game Commission:

"Recently there has arisen a problem in connection with the Puyallup River which holds a potential of having very serious consequences to the Department. Briefly it is this. A group of Indians have discovered that two small tracts of land, one approximately 350 feet wide, the other about 40 feet wide, fronting on the Puyallup River in the City of Tacoma, in fact, * * * are a part of an old Indian Reservation and these lands appear to be tribal property. * * * A preliminary investigation on our part indicates that there is considerable reasons to feel that the rights of the Indians may be substantiated because of an old treaty. * * * The situation has far greater implications than might ordinarily be found in a case of this type. The Puyallup River is perhaps our most heavily fished steelhead stream. On opening day of the steelhead season it is not unusual to find in excess of 1,000 fishermen using the stream * * *"

"We have had several conferences with our attorney, Mr. Thomson, to actually determine the Indian rights which will involve a rather prolonged study of the property and treaty rights. It is, however, Mr. Thomson's opinion on the face of the matter that the Indian may, in fact, be possessed of various substantial legal rights."

"On October 19th, a meeting was held in our Seattle office * * *. It was felt by all those present that these tracts of land in question were a part of the nearly depleted Puyallup Reservation and that Puyallup Indians could legally fish it. * * * This Department has never felt it had jurisdiction to enforce any state laws against Indians on their respective reservations."

"There would be little or no value in acquiring these two small—almost valueless—tracts of land adjoining the river, as there is no question but what the Puyallup River was their usual and accustomed fishing places. The Puyallup River is undoubtedly fished by more steelhead fishermen than any other stream in the state. There may be as many as 1,000 fishermen fishing for steelhead on a single Sunday, from the mouth of the river to the city of Sumner, which is a distance of approximately ten miles. In conclusion, should the Indians exploit this river to their utmost, it is quite likely that some of the steelhead fishermen who fish this stream may take the law into their own hands in abating this nuisance."

The Puyallup fishery was re-established and continued into the 1960s, with the minor impact noted in the 1961 report. The State Supreme Court refused to halt the Puyallup's fishing; but after that court issued a later decision relating to a Tulalip Indian in northern Puget Sound, new litigation began.

In 1962, the State filed for injunctions to halt net fishing by Indians for both salmon and steelhead on the Puyallup and Nisqually Rivers. Both Fisheries and Game Departments claimed that any use of nets on streams would wipe out and destroy the fish resources, despite all the evidence and knowledge they held to the contrary.

The expert testimony of Dr. Richard Van Cleve, the respected Dean of the University of Washington's College of Fisheries, was relied upon for securing the injunction. His affidavit stated that he had never observed the Puyallup River net fishery, but that discussions with the Departments' biologists convinced him that the destruction would occur.

When tribal fishermen subjected themselves to arrest to protest the absolute prohibition, one Assistant State Attorney General advised another on tactics in the proceedings:

"It appears to me that they are banking hopefully on public sympathy * * *. The only antidote I can think of at the moment to counter this strategy is to bleed heavily for the fish and pull out all the stops for the record in describing the rape of this God-given natural resource (sob) and maybe steal some of their thunder. As to another strategy, I could quote Reilly's rule number one: 'Don't stipulate to a damn thing! Make them prove that they are Indians.' * * * I would like to hear the fairy tale the redskins whomp up to describe their use of nylon set nets prior to the treaty."

Ultimately, this matter resulted in the U.S. Supreme Court's directed remand in the *Puyallup I* decision of 1968.

In returning again to their fishery in 1970, the Puyallup Tribe established a fishing camp upon the lands the Game Department had investigated in 1953 and affirmed as reservation tracts. The remand trial had been delayed by the State and neither salmon nor steelhead fisheries had been allowed the tribe whatsoever.

This renewed attempt to exercise a treaty right led to one of the most brutal police attacks on Indians in the long history of the controversies. More than 300 State law enforcement agents and Tacoma policemen attacked the camp with military weaponry and full riot gear. State officials claimed that an authorized, then terminated, net fishery had shown insufficient numbers of fish to justify a fishery. An internal police report proved this a pretext to give color of law to the police action.

The decision was made substantially in advance, and without regard to any fishery consideration. The report noted: "Just prior to Labor Day weekend, Fisheries advised that they were desirous of moving into the area in force. Two different meetings were held. * * * Here plans were developed which were to be executed on September 9 at 6:30 a.m."

In fact, they had agreed that they should give themselves the long weekend off, including the paid holiday, and then to allow themselves a full day to mobilize agents from around the State to conduct the raid.

The attitude prevailing among the raiding force was characterized in the report of Fisheries officer Howard Simpson, who wrote:

"This Indian subject went down over the side of the dike struggling with the Game Agents and had to be thumped in the head several times with a riot stick. * * * I feel that the whole operation was a success and was glad that I got to take part in it. I think the Tacoma Police Dept. was invaluable in their support & were key in the success of our mission. I was also pleased with the news coverage we received in this area."

The fact that the reservation lands were wholly outside the jurisdiction of the police agencies was formally reaffirmed shortly thereafter. Within three months, Judge Rummell had decreed that both agencies must allow a tribal fishery on the Puyallup River and that neither Game nor Fisheries could totally prohibit an adequate net fishery for each salmon and steelhead.

Judge Rummell, a past president of the National Rifle Association, gave impetus to what later became known as the "Lloyd Meeds Syndrome". Recognized as an eminent sportsman himself, and respected for his impeccable integrity as a judge, Rummell was soundly defeated and removed from office at the next election because of his decision. The next casualty was Assistant Attorney General William Gingery, who was transferred to Western Washington State College, when white fishermen complained to Slade Gorton that Gingery was not seeking the elimination of Indian treaty rights, but was asking the courts to certify the quantity of fish each tribe was entitled to for satisfying their existing treaty rights.

No remand hearing or trial was ever held in the Nisqually River case which had been decided by the U.S. Supreme Court in consolidation with that of the Puyallups in 1968. The Fisheries Department, however, had begun establishing annual net fisheries for the Nisquallies in off-reservation waters in the period between August and November. Most seasons within that calendar time frame have been greatly curtailed, and often eliminated, since the 1974 *Boldt* decision was issued to impose strict standards for protecting spawning escapements.

Interestingly, in the past several decades, the most stable and highest volume resources of the Nisqually River system have been the chum or "dog" salmon and the steelhead. The main runs of both species appear in the river in December, January and February, although significant numbers of steelhead pass up the river through April. In contrast to the Puyallups, the Nisquallies have annually maintained a fishery upon these resources throughout this century. When the State has acted to prohibit an off-reservation fishery in the four-mile stretch between the river's mouth and their reservation, the Nisquallies have continued fishing within the seven miles on the reservation.

In the years preceding the *Boldt* decision, the Washington Fisheries Department abandoned all management responsibilities for harvestable salmon resources on Puget Sound on November 30. Notwithstanding the fact that the principal resource of a stream might be salmon, as with chum salmon on the Nisqually River; from December 1 through April 30, the Game Department assumed total control of rivers for purposes of enforcing its absolute prohibition against the netting of steelhead. Because these two major resources run con-

currently on the Nisqually River, the bar against steelhead harvests became a prohibition against net fishing for chum salmon.

The impact upon Nisqually Indians' rights of the State's use of steelhead laws to curtail all fishing was illustrated by the enforcement actions of January 1973, again before the rendering of the *Boldt* decision. A consolidated enforcement report, dated January 22, 1973, by Wildlife Agent Richard Zimmerman, district supervisor for the Game Department, summarized results of Nisqually River patrols and raids in the preceding week. Of confiscations, Zimmerman reported:

"20 nets in four days; 80 salmon, 11 steelhead."

"NOTE: I have been advised by the Army that in a one day count on Muck Creek, their personnel counted 1300 dog salmon. This has been a terrific year for dog salmon run."

The ostensible State law at the time was that Indian fishing was not to be restricted except when "reasonable and necessary for conservation". The Zimmerman report itself indicated that an adequate spawning escapement was occurring.

A year earlier, State officials accused Indians of lying about the nature of State enforcement actions on the Nisqually River, after fishermen had complained that about 40 agents or more had attacked them while armed with shotguns, pistols and riot clubs. On January 5, 1972, the Tacoma News Tribune carried the State's response and denial in an article. Denying that one "officer had turned to another and shouted, 'Shoot that sonuvabitch!'" Game Enforcement Chief Walter Neubrech had claimed that:

"Only 18 officers participated Tuesday, 11 of them called in from outside the district. Neubrech said Game officers were not armed with pistols. He said Game officers normally do not carry weapons * * *. Asked if they carried clubs Tuesday, he replied, 'If they did, I didn't see them.' * * * But Game Director Carl S. Crouse said later Tuesday, 'One, our people did not have guns, and two, they do not talk or act that way.' The Department doesn't issue its officers guns, he said."

Neubrech's own 12-page report to Director Crouse on the January 4, 1972, raid told a completely different story, however. Neubrech informed Crouse that their patrol had gone to the Nisqually River fully armed. The members of a 15-man Tactical Riot Squad, led by Agent Bob Leslie, plus 15 additional regular patrolmen assisting in the raid, were all listed by name in the final report, apart from the command superiors on hand. A January 3, 1972, "Nisqually River Patrol Plan", issued by Agent Richard Zimmerman had provided written instructions for six separate Game units, including "Leslie and his crew." Written instructions were also provided for two Thurston County Sheriff's units—and for Military Police (M.P.s) from the U.S. Army Base at Fort Lewis. The Military Police were advised that they should take their instructions and orders from State Game officers "Mericle and Smallwood".

With respect to that raid, it had not been the Indians who were lying. Interestingly, in the preceding decade, the U.S. Army had repeatedly denied any involvement whatsoever in the State's raids against Indian fishermen and fishing gear on the Nisqually River. The Defense Department consistently denied it in response to inquiries from U.S. Senators and Representatives. Yet, these internal reports and documents of the State Game Department showed that Military Policemen were participating in raids under the control or command structure of the State's own Game Patrol.

In the preceding summer, on August 30, 1971, the Directors of both Game and Fisheries Departments joined in a meeting at the Governor's Office to discuss the dispute over Indian treaty fishing rights, particularly on the Puyallup River, with a group of non-Indian sportfishermen. There, a strategy of regulated overharvesting and diminishment of resources was outlined as being "in the interest of the overall and longer range overview." An attorney for the sportfishermen pointedly asked, "Do we destroy the fish runs while we wait on the courts?" When the State officials replied that damages to the runs "will really help our case in court"; the attorney, Richard De Jean, resignedly commented, "I would rather we could better our position in some other way."

The State officials, which included a legislator who chaired a Natural Resources Committee in the State House, and a Governor's aide who later advanced by appointment and election to the State Supreme Court as an Associate Justice, explained to the sportsmen: "We agree with you—its just a question of tactics. What's the best thing to do at this point." If the resources could be sufficiently reduced, and the blame cast upon the Indian tribes, they argued, "it would be effective and impressive with the public" and "help our case in court." The meet-

ing transcript denotes a sportsman's "chuckles", when stating and asking: "Some of the upstream creeks are still bone dry. You think it'll help us out if no fish get back to the hatchery? (Chuckles)." The Fisheries Director then responded that it was not planned to "destroy it completely"; but, once the Indian fisheries or treaty rights were eliminated, and the State had secured "the right to regulate it", the resources would be restored through enhancement activities "and we can bring it up from there".

The "steelhead solution" proposed by Don Bonker incorporates the racist attitude that it is preferable to destroy the resources than to allow Indian people to continue sharing them. By abrogating and erasing from the federal treaty and State law the Indian right to steelhead, the Bonker Law would invite an evermore deprival and abusive application of State police powers than has ever occurred in the past.

Where reservation boundaries have afforded some prior protections against abuses, the Bonker Law would carry State fishing prohibitions onto Indian reservations to be applied against Indians, while potentially admitting other fishermen into the treaty reserves where they have never possessed a fishing right. Irrespective of the harvestable numbers of fish available, the Bonker Law could once more and permanently, without justification, disallow Indian commercial net fisheries for salmon species running with the steelhead.

Previously, figures were cited showing that nearly 89% of the steelhead harvested on the Puyallup River were taken by sportsfishermen upstream from the Indian nets, past which they escaped. The statistical period came at a time when the State Supreme Court had left intact a ruling that the State had no right to regulate, restrict or stop that Tribe's fishing. On the Nisqually River, in the years that the State had halted all off-reservation fishing, as yet, steelheaders had first access to the resource in the four-mile stretch of river below the Reservation. Variable factors have determined whether the Indian fishermen or the sportsfishermen have taken the greater number and percentage of Nisqually steelhead in any given year.

In the 18-year period since the Pierce County Superior Court assumed continuing jurisdiction over the Department of Game's management of Puyallup River steelhead, beginning in 1962, that resource has declined unbelievably.

Since the State initiated its litigation to stop all salmon and steelhead fishing by Puyallup Indians, and maintained its continuing regulatory jurisdiction over the Puyallup River, the Game Department has succeeded in reducing the annual sportsfishery from an annual harvest averaging more than 10,000 steelhead—and ranging to nearly 20,000 in some years—to a dismal fishery that seldom provides as many as 2,000 steelhead to sportsmen anymore in any year. State Judge William Brown for the 1978-79 season decreed that the Puyallup Tribe was collectively entitled to harvest no more than 446 steelhead. In January of 1980, Judge Brown agreed that his prior sharing rationale was faulty under the terms of the latest decisions of the State and U.S. Supreme Courts, and that the Tribe's entitlement conditionally could be more than doubled from the 22½ percent share allowed last year. On the other hand, he determined that the Indian share could be decreased further, and enjoined the Puyallup fishermen from fishing until they might satisfy all his conditions. Thus, their 1979-80 share, under the full "protection" of the local State court, was reduced to zero!

In the first months after the *Boldt* decision was issued, I acted as fisheries manager for the Puyallup Tribe in planning and scheduling salmon and steelhead fisheries for the 1974-75 seasons. These were carried out before Judge Brown assumed total control of the steelhead resource. The Tribal Council agreed that no effort should be made to prohibit the non-Indian sportsfishermen from fishing within the boundaries of the Puyallup Reservation from Commencement Bay in the City of Tacoma to within the city limits of the town of Puyallup. Although the *Boldt* decision permitted a much more liberal or larger catch of steelhead, the tribal governing body agreed with my projections of limiting their steelhead catch to an approximate 35 percent of the harvestable numbers on the Puyallup River. The actual Puyallup catch totalled in at 36 percent in 1974-75.

The rationale employed in that last year in which the Puyallup Tribe exercised management responsibilities for the steelhead resource involved considerations for the Nisqually tribal fisheries. It was believed that Puyallup fishermen could and should sustain a reduction in their own entitlements to steelhead in exchange for the percentages in excess of 50 percent that Nisqually fishermen would take in concert with a normally scheduled chum salmon and steelhead fishery on

their river. Inasmuch as the Puyallup Tribe planned an increase in its marine fisheries for the fall season chinook and coho salmon, with potential increased interception impacts upon the Nisquallies' extremely limited supplies, it was considered a fair trade-off to make up a differential with the steelhead. Considering the two rivers in combination, this promised an equal sharing of steelhead between Indians and non-Indians, while maintaining the Puyallup River as a primary sportfishery and allowing the Nisquallies to maintain their traditional bread-and-butter chum fishery with minimal disruption. The State Fisheries and Game Departments accepted that rationale and arrangement, until Judge Brown came forth with his rationale that he'd "be damned" if he was "going to let any blue-eyed Puyallup Indians claim a superior right to these fish."

Judge Brown and Don Bonker came onto the fisheries scene at approximately the same time. With near missionary zeal, Congressman Bonker dedicated his first term in office to a constant haranguing of the U.S. Fish & Wildlife Service for its role in providing evidence through expert witnesses and testimony to the Boldt Court in reaching its decision and in the processes of implementing it. He successfully badgered the USF&WS into adopting an agency policy of deferring to the wishes of the State Game Department in any instance where WDG objected to federal or tribal projects or scientific studies and surveys. The first result was the killing of hatchery enhancement projects being planned for the Nisqually River. The second was the exclusion of steelhead from Nisqually Basin fish population studies and tagging surveys.

According to Congressman Joel Pritchard, Bonker spearheaded the 1975-1976 campaign with the U.S. Fish and Wildlife Service to break up its Northwest Fisheries Program biological staff and services to Indian tribes, and to secure the transfer or forced retirement of program manager, James Heckman, a 25-year career scientist. Under inter-agency contract to the Bureau of Indian Affairs and the Justice Department, that program had laboriously developed critical portions of the evidentiary case, and Heckman served as the United States' principal expert witness on fisheries, in the Boldt Case, *United States v. State of Washington*. To prevent implementation of the decision, State officials had joined citizen commercial and sports fishery organizations in lobbying to end that USF&WS program and "to get rid of Heckman". A Bonker hometown cohort and Vancouver constituent, F. Larry Cassidy, member and chairman of the State Game Commission, was particularly effective in guiding Bonker in his lead role.

Interior Department records secured by the congressional American Indian Policy Review Commission documented a thoroughly nefarious, underhanded, ludicrous, and sometimes laughable, campaign to drum Heckman out of the Service, precisely because of his professional performance in duties, and because his exemplary career was perceived as a threat to the overriding political interests of public officials. At one point, all activities of the staff and program were threatened with suspension or termination after one staffer bruised a finger in a fishnet, and another biologist suffered a collapsed lung, during a series of salmon tagging operations. Had not one of the famous lungs of Patty Hearst coincidentally collapsed in her period of inactivity and imprisonment about the same time as the claimed crisis in the USF&WS program, the pulmonary failure experienced by the biologist likely would have been considered sufficient cause to close the Indian services program as explicitly threatened. Although the bruised finger consumed much paperwork and agency time for review proceedings, that injury lacked sufficient drama for use as pretext in ending the program.

Finally, the USF&WS directed Heckman to accept a reassignment to Washington, D.C., to manage its "top priority" program for Alaskan Natives, or to apply for voluntary separation or retirement from the agency. Protests and inquiries on the matter were answered with a form response claiming that a strong demand for his services had been voiced by the northern natives and that his extraordinary experience with Alaskan issues made him ideally suited for this new agency position. Agency documents refuted this story. To develop an after-the-fact justification, a strenuous search of personnel and other files was ordered to determine whether Heckman officially had ever been in Alaska for the agency. The search finally produced a record that, indeed, Heckman had been detailed to meet and escort former Interior Secretary Walter Hickel from an airport in Alaska in the early days of the Nixon Administration.

These incredible political machinations did lead to Heckman's retirement. They also led to extreme disillusionment among young staff biologists, who left their planned USF&WS careers or lost faith in its integrity. One of the most

promising biologists who left fisheries work after that, held a Master's Degree and specialized in steelhead resources production. In his case, a State Game employee had complained to the USF&WS regional office that the State did not like statements the biologist had made at a fisheries workshop conducted under the auspices of the Federal Court and its expert advisor. Two months after the workshop, which the biologist had attended under request and order, the regional USF&WS informed him that an "Unfavorable Conduct" report had been placed in his permanent personnel file because of his objectionable remarks. The agency conceded that the reported statements were unquestionably "valid", but nonetheless were to be considered "unacceptable". He was ordered to Portland, Oregon, to discuss his "career advancement." Instead, he left the agency and abandoned fisheries, moving to the Palouse Hills region for a more satisfying life; initially baling hay.

It has been only in the 1970's that the high command and policy personnel of the Washington Departments of Fisheries and Game have ceased to be those persons whose primary interest was that of stopping Indians from fishing on the rivers for both salmon and steelhead. The authors of the anti-Indian strategies of the late 1930's and throughout the 1940's, 1950's, and 1960's, were still in control of the Departments entering the 1970's, in the administrative, biological, and enforcement divisions. In this decade, most have passed into retirement. Game Director Ralph Larsen is the last hanger-on, and now the most embittered against Indian treaty rights which have survived him and all his former colleagues and contemporaries.

Don Bonker is determined to carry on their tradition, blindly embracing their objectives, prejudice and passion. He is committed toward succeeding where the preceding generation of racists have failed. His March 11, 1977, meeting with the USF&WS representatives, and others, in the office of former Congressman Lloyd Meeds to declare to the Carter Administration and its Federal Fisheries Task Force that the steelhead resource simply had to be taken away from the Indians represented his position at its basic racist and bare-boned political core. He made it clear, then and subsequently, that he did not want to be bothered by facts or any other material considerations. The Federal Task Force began its work with its steelhead results already defined by instructions in that March 11 meeting; and covered by the less than 1 percent of the Congress who declared they would brook no deviations from the Task Force on the steelhead issue.

When the U.S. Commission on Civil Rights questioned the Federal Task Force regarding its final recommendations for dealing with steelhead issues, and the rationale behind the recommendations, the federal representatives proclaimed that there was no reason or rationale for them other than "politics." The Commission was informed that, in reality, Indians' fishing for steelhead by whatever means constituted "no problem". The problem was "politics", and its solution was "political".

Significantly, when the Federal Task Force proposed spending some \$200 million on Northwest fisheries problems, two-thirds of it for enhanced production and hatchery projects, it eliminated steelhead production from all the proposed Indian projects. In 1961, the Game Department had noted that "it should be borne in mind that Indians" reside on or "net most of the best steelhead streams." In 1979, Federal and State agencies were agreeing that \$75,000,000 should be budgeted for Indian-operated enhancement projects on these same streams, but that not one cent of it should produce an additional steelhead! The Civil Rights Commission had questioned why enhancement was not being considered as the solution to the steelhead sharing problem. That is when it was told that the steelhead problem was not one of supply, but one of "politics"; most assuredly, one of Don Bonker "politics".

In fact, there is a problem of resource supply. A quarter-century ago, 47 percent of sportfishermen licensed by the State to fish for steelhead were experiencing no success in catching any, no matter how many fishing days were expended and irrespective of where they fished during the annual seasons. Today, roughly 20 percent of active steelhead fishermen catch the total sports harvest; and the rate of non-success has risen to more than 80 percent. Increased Indian harvests are not a central factor in this change, and might be considered so only on a relatively few streams.

A 1970 Federal-State inter-agency report estimated projected future demand for steelhead sports harvests in Puget Sound alone as increasing from a catch level of 158,700 in 1966 to 265,000 in 1980; increased to 403,000 steelhead in the

year 2000; and 644, in 2020. This represented a demand increase of 2,557,000 angler-days upon steelhead resources by projected population increases in the region, but using a constant ratio of sportsfishermen to total population as existed in 1970. The projections did not contemplate an elimination of Indian net fisheries. However, there was confidence that these needs could be met through substantial increases in enhanced natural and artificial production programing.

Although some Indian Tribes have found it impossible to discontinue commercial net fisheries for various legitimate and valid reasons, virtually all have indicated willingness to limit their steelhead harvest impacts to levels far below the maximum entitlements decreed them by the courts. Even before the federal lawsuit was filed against the State in 1970, some Tribes had proposed a permanent harvest ceiling or catch quota, which would be maintained under plans for all increased production being allocated to sportsfisheries. This remains a fair and reasonable proposal. Other Tribes and combinations of Tribes have acted to designate a majority of streams as no-net or non-commercial fisheries during the steelhead runs. In other cases, Tribes have refrained from establishing new fisheries on streams within their usual and accustomed grounds where additional steelhead harvests might legally be taken.

Significantly, most Tribes have been interested in contributing to the needed increases in steelhead resources levels for satisfying their own needs and improving the general status of sportsfisheries on streams to which the particular tribes are related. It is vastly more sensible to utilize the Tribes' resources, facilities, and expertise in that objective than to exclude Indians from all interests in the steelhead resources.

All Tribes are not equally nor similarly situated with respect to available harvestable supplies of salmon and steelhead. Indians should not be considered collectively in defining any one Tribe's particular interest in steelhead, any more than non-Indians should be considered collectively in a relationship to harvestable fishresources. Steelhead could readily be considered an insignificant harvestable fish resources. Steelhead could readily be considered an insignificant by non-Indians. On the grounds which Don Bonker uses to characterize steelhead as being "insignificant" to Indian fishermen, the steelhead should become even more "insignificant" to non-Indian fishermen.

When a Lummi Indian purse-seiner, or a non-Indian purse-seiner, catches as many sockeye salmon in a single haul of his net in July as the entire Nisqually Tribe catches steelhead in a year, the Lummi catch or the non-Indian catch does not alter the Nisqually fisherman's reliance upon chum salmon and steelhead in December or January. Nor does it create a right for the Nisqually Indian to catch sockeye in July or August or at any time. When the annual harvest of the Nisqually Tribe of all species of salmon and steelhead remains constant at under 30,000 fish, that tribe is not enriched by the fact of all other Indians in the State catching more than a million or two million outside the Nisqually's treaty fishing grounds. In 1963, the Muckleshoot Tribe caught a total of 704 salmon, while other Indians collectively caught some 800,000 and non-Indians harvested some 11 million. That tribe was no less impoverished by the good fortune of other Indians who had better reservation protections, or of citizens in a State which decreed that Muckleshoots should have no fish off their reservation.

There has never been a complete nor accurate accounting of the sources of funding for artificially propagated steelhead in Washington streams. The steelhead management and production programs are subsidized from a number of sources other than steelhead punchcards and fishing licenses for that particular fishery. The claims of a sportsfishery subsidy to Indian commercial fishermen have been grossly exaggerated, and often contrived to include streams where no State plants of steelhead have been made.

The "decommercialization" of steelhead, in itself, will not increase the non-Indian entitlement to specific numbers of fish, nor reduce the numbers to which the different tribes are entitled to harvest by whatever means. Strictly speaking, to prohibit their sale and commercial shipment simply requires an Indian consumptive use of their catches—and not that the tribal catches be reduced. What is the sense of it?

What inanity prompts Don Bonker to ask expenditures of \$10 million to pay Indians to eat steelhead in unprecedented modern amounts, while depriving others of that protein? This \$10 million, for the most part, would be better spent for increasing steelhead production, along with the tens of millions of other dollars committed toward tribal fisheries enhancement projects—from which, it

is proposed so unwisely, steelhead are to be excluded from production and barred to Indian tribes in favor of a State Game Department monopoly. Some of the most promising new developments in successful steelhead production methods, techniques and experimentation are occurring among Indian programs. It is simply stupid to stop or extinguish the basic Indian interest in increasing steelhead production. It is no less foolish to restrict the Indian right in the species to that of an overindulgence in steelhead for their winter diets.

The claim that a sports-caught steelhead is more valuable than a commercial-caught steelhead is an exercise in false economics. It is false in fact. The roughly 20 percent of sportsfishermen who catch the total numbers of sports-caught steelhead carry home the artificial value in fish of money spent by the 80 percent who carry home nothing. Those who catch nothing, however, are nonetheless accounted as having averaged a catch of 1 to 2 steelhead for the year. For the Indian fisherman and family, even at \$15 per fish on average, the steelhead's monetary value is both more direct and real, and is counted only when caught and sold or consumed. The State's calculation of a sports value being roughly ten times as much, or \$150 per steelhead, has only the slightest and most tenuous relationship to actually catching steelhead at all. It includes the costs of success and non-success combined. On average, the sportsfisherman is credited with harvesting two \$150 steelhead on his base \$10.50 cost for license and punchcard. As noted, however, the "average" steelheader does not catch any fish; it is the "exceptional" 20 percent of fishermen who extract the full "value" of the harvests.

If the license and punchcard were the only costs involved, it would appear immediately that the sportsfisherman was being gifted with a \$289.50 subsidy for every two steelhead taken from the waters. The valuation is based, however, upon various additional cost expenditures and dollar circulation factors. Thus, besides minor management and production costs for maintaining the resource the sports value for steelhead is partly dependent upon how much all fishermen spend for boots, waders or raincoats; tackle, gear and gas; motels, beer and whatnot. In the *Puyallup* steelhead litigation, top officials of major sportsfishery organizations intervened to testify under oath that steelhead fishing was, or is, "the next best thing to sex." That may or may not be true in either tense. We could assume, nonetheless, that should certain of its forms be "decriminalized" and engaged in during the course of a fishing trip, this to would then be "legitimately" incorporated into the valuation of a sports-caught steelhead. As it is, under the present calculating system, steelhead are at least more valuable than gold; particularly for those native sportsmen who catch nothing and are yet considered to receive full value of every \$150 steelhead caught.

There is no question but that the steelhead resources of any particular stream system may be endangered or damaged by excessive harvests, whether using nets or rods and reels. In the past, each method on occasion has exceeded proper harvest levels on various streams. The *Boldt* decision, probably more so than any other public or official measure, was constructed in language and law to minimize or prevent those excesses as much as possible in the future. Where management decisions are being based upon an adequate and correct informational or data base, harvest impacts are more readily controlled and limited with a regulated net fishery than is the case with an open calendar season for unknown numbers of sportsfishermen taking a number of fish in volumes unknown until after the season. As result of the *Boldt* decision, both systems are being refined and substantially improved to protect steelhead from overharvesting.

The population of Washington State is increasing faster than projected ten years ago. At that time, the number of harvested steelhead was equal to approximately 10 percent of the human population. Entering this decade, the ratio is closer to 5 percent. The design of the Bonker proposals is to hurt Indian people, not to provide improved or assured sports fishing opportunities to the general citizenry. This latter objective can best be achieved by a public policy which addresses the real needs of the fish resources, acknowledges the varying relationships that different Indian Tribes have to the steelhead, and which encourages Indian participation in processes and programs that enhance the actual benefits to be realized by all people from steelhead resources. The Bonker Law would do little more than institutionalize the existing policy and condition whereby most people in the State, even when actively trying or wanting, shall never have an actual opportunity to catch a steelhead by any means or methods.

In pursuing success where others failed in a near century of attempting to extinguish Indian commercial fishing rights, the public statements of Don Bonker indicate he has adopted a textbook strategy of prior believers in a doctrine of White Supremacy, namely that: "All propaganda has to be popular and has to adapt its spiritual level to the perception of the least intelligent of those towards whom it intends to direct itself." There is no requirements for honesty or truth, and Bonker recognizes none. His political actions do forestall acceptance of the public policy which is needed, but which may be known only to honest citizens and honorable men. This is unfortunate for the future of the general citizenry, the Indian people, and the steelhead resources. But it will probably get Don Bonker re-elected once more. How nice. Perhaps Christopher Morley was right in writing, "The enemies of the Future are always the very nicest people."



