

# NWIFC News

*Northwest Indian Fisheries Commission*



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**30**  
Boldt  
1974-2004



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# Boldt Brought Management To State

By Billy Frank Jr.  
NWIFC Chairman



This year marks the 30<sup>th</sup> anniversary of a court decision that forever changed natural resource management in the State of Washington – for the better.

Most Washingtonians know federal Judge George Boldt re-affirmed tribal treaty-reserved rights to half the salmon in his famous 1974 decision, and that his ruling established the tribes and state as co-managers of the salmon resource. The Boldt Decision has been used to define Indian hunting and fishing rights cases across the country, as well as to determine aboriginal rights as far away as Australia.

But what most folks don't know at all is that the Boldt Decision brought responsible salmon management to the State of Washington.

Before Boldt, the state didn't really know what salmon management was. After Boldt, for the first time, harvest quotas had to be clearly defined. Salmon began to be managed on a river-by-river basis. The by-guess-and-by-golly approach to salmon management was gone.

As tribes began to implement their fisheries management programs they contributed quickly to the overall knowledge of the salmon resource. There were more biologists and other technical staff working in the field, developing computer models and finding better ways to understand and manage salmon. We began to slow the decline of this great Pacific Northwest icon.

But we needed to learn to work together. The State of Washington didn't trust us. To be frank, we didn't trust them much, either. They challenged our data, questioned our fisheries managers and simply dragged their feet in fully implementing the Boldt Decision. We spent many months and a lot of money arguing before a federal mediator – time and money that could have been better spent on the resource.

It wasn't until the early 1980s that the tribes and state began acting like co-managers. Together, we developed the first Puget Sound Salmon Management Plan. We stopped fighting each other and started working together.

I wish it would have happened sooner. We could have accomplished so much more.

Today, while we have a good handle on the day-to-day management of the salmon resource, we are still dealing with echoes of the past. Yes, we have slowed the salmon's decline. We have cut harvests – by as much as 80 to 90 percent in some cases. We are reforming the operation of our hatcheries to aid wild salmon recovery and support sustainable fisheries. But we continue to struggle on the habitat front. The habitat destruction over the past 100 years has slowed, but not stopped, and the ever-increasing human population here threatens to counteract the things we have achieved. We can no longer make up for the lost salmon productivity in our watersheds by continuing to cut back our fishery harvests.

Judge Boldt introduced the tribes' vision to salmon management in Washington, a new set of values that might be the best hope for saving the salmon from extinction.

It took over 100 years to nearly destroy the salmon resource. It could take more than 100 years to bring it back. But, whatever it takes, we have to do it – all of us.

## Northwest Indian Fisheries Commission News

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**On The Cover:** Scenes from the Fish Wars of the early 1970s that preceded the Boldt Decision. Clockwise, a confiscated tribal salmon catch; Ramona Bennett, Puyallup, being booked in the Pierce County Jail; Shown being arrested are Allison Gottfriedson, Puyallup, Michael Hunt, Umatilla, and actor Marlon Brando. See Story, Pages 8-10

# Puyallup Tribe's New Hatchery Nearer To Nature

The Puyallup Tribe of Indians is putting the finishing touches on a new hatchery that will use cutting edge techniques to raise salmon better able to survive in the wild.

“Chinook born in the wild develop instincts that help them avoid predators and find food,” said Blake Smith, enhancement manager for the Puyallup Tribe. “Unfortunately, this isn’t something we see a lot of in hatchery fish raised in traditional cement ponds.” By adding tree root wads and gravel to what are called “nature’s rearing ponds,” young chinook will learn to take care of themselves at the new hatchery.

“When we re-create their natural environment at the hatchery, juvenile salmon will learn skills that will help them survive in the wild,” said Smith. “For example, most hatchery fish associate shadows with the hatchery staff that feed them. But in these nature’s ponds they won’t associate shadows – which could turn out to be from a predator – with food.”

Chinook that have been raised in nature’s ponds actually appear different from traditionally raised salmon. “Juvenile salmon take on the color of their surroundings, so when they’re surrounded by logs, rocks and other natural elements they tend to be darker,” said Smith. “On the other hand, salmon raised in concrete ponds tend to be lighter in color, and when they are released into the wild, it’s easier for predators to see them.”



Blake Smith, enhancement manager, surveys a special rearing pond the Puyallup Tribe will use to raise chinook salmon that will have a better chance of surviving in the wild. *Photo: E. O'Connell*

Because Clarks Creek has ample streamside vegetation, the chinook released from the nature’s ponds will find little difference between the ponds and the creek. “The quality of habitat on Clarks Creek will certainly benefit chinook,” said Smith. “Because chinook can hang around in the river for as long as four months to a year before they leave for the ocean, they depend on quality freshwater habitat to grow. Salmon need good freshwater habitat as well as good hatchery practices.”

Several other tribes have been using nature’s ponds for years. Results from the Lower Elwha Klallam Tribe indicate that survival rates increase with salmon raised in a more natural setting. The Puyallup Tribe’s new hatchery was funded through a Hatchery Reform Project grant. Hatchery Reform is a systematic, science-driven joint effort between treaty tribes and the state Department of Fish and Wildlife to recover and conserve naturally spawning salmon populations while supporting sustainable fisheries.

“We’re looking at our hatchery practices not simply in terms of the amount of fish we can pump out, but also the quality of those fish,” said Smith. “We’re also running our hatcheries with the goal of recovering weak salmon stocks. Producing hatchery fish that have a better chance of surviving in the wild helps us achieve that goal.”

“Using nature’s ponds is a fairly straightforward step we can take that will increase the amount of chinook salmon coming back as adults,” said Smith. “More chinook surviving into adulthood means more fish coming back for every fisherman.”

– E. O'Connell

## Chinook Salmon Fast Facts

- Chinook are the largest salmon, with a length ranging up to 58 inches and weighing up to 135 pounds.
- Scientific name: *Oncorhynchus tshawytscha*.
- Common names: King salmon, tye salmon, Columbia River salmon, black salmon, chub salmon, hook bill salmon, winter salmon and blackmouth.
- Chinook are listed as “threatened” under the federal Endangered Species Act.
- Chinook salmon may spend one to six or more years in the ocean before returning to their natal streams to spawn, though the average is three to four years.
- Spawning usually occurs in deep, fast water with cobble-size gravel. Average nest, or “redd,” sizes can range between 43 and 162 square feet buried approximately 7 to 8 inches in the gravel. An average redd can produce between 3,000 and 7,000 eggs.



# Oil Spill Fouls Tribe's Sacred Beach

As she's done throughout her life, Marilyn Wandrey stood on the beach and prayed. After saying a few words, the Suquamish tribal elder sprinkled ground cedar, tobacco, sage and sweetgrass into the Puget Sound. With a traditional drum beating in the background and smoke rising from a burning sage stick, Wandrey then turned and looked skyward where an eagle soared.

"Our ancestors are here, and they're happy to see us today," she said smiling.

Wandrey, along with several other tribal members, was on the beach near Indianola that February day to start the healing process nearly two months after an oil spill blackened the shoreline. The oil inundated the beach owned by the Suquamish Tribe and spilled into a once-pristine estuary on Dec. 30 – hours after nearly 5,000 gallons of the fuel overflowed from a barge across Puget Sound.

The heavy bunker oil spilled from a Foss Maritime barge while the fuel was being transferred to the vessel at a Chevron/Texaco terminal at Point Wells near Edmonds. As oil-skimming boats corralled some of the fuel, thousands of gallons eluded the booms and washed up along the Suquamish Tribe's sacred estuary known as Doe-keg-wats, which means "place of deer."

In that instant, the 400-acre estuary went from one of the state's most pristine coastal wetlands to the site of an environmental catastrophe. Thick, black goo soaked the gravel beach, covered driftwood and darkened the grassy marshland. Important nearshore habitat used by herding and salmon was suddenly awash in dangerous chemicals. The damaged beach is also home to geoducks, little-neck and manila clams, which all help make up a \$2 million shellfish industry for the tribe. It's estimated that several hundred thousand dollars in shellfish will be lost; long-term effects on clam populations are still unknown.



Workers clean up oil that flowed into the Suquamish Tribe's Doe-keg-wats estuary near Indianola after a Foss barge spilled about 5,000 gallons of the heavy oil into Puget Sound on Dec. 30. Photo: D. Friedel

Over the next several weeks, teams of cleanup crews removed and replaced oil-soaked booms daily. Eventually, the workers began cleaning individual rocks and logs by hand. The cleanup crews were hired by Foss Maritime, which took responsibility for the spill.

Today, the beach looks clean. But the long-term effects of the spill are still unknown.

"It's a real shame what happened here," said Leonard Forsman, Suquamish tribal member. "This is a place where we would get together with our families and friends, have clam bakes and catch salmon. And for a lot of us, we grew up down here. It's pretty heartbreaking to see something like this happen to a place we cherish."

Steps need to be taken to prevent something like this from happening again, said Rob Purser, fisheries manager for the Suquamish Tribe. Purser testified before the House Fisheries, Ecology and Parks Committee two weeks after the oil spill. The hearing was called to discuss future legislation aimed at oil spill prevention and response.

"The state needs to put rules in place to keep this from happening again," Purser said. "Look at the damage a

5,000-gallon spill caused. What if it was much larger? There needs to be changes made before something like that happens."

The spill could have been much worse because the barge holds about 1.2 million gallons of oil, Purser said.

In March, state lawmakers approved a bill that would require the state Department of Ecology to adopt rules for the deployment of an oil-containment boom whenever certain fuel transfers are taking place. Having the boom in place during a transfer would help keep a spill from spreading. Also being discussed is whether oil transfers should be limited to the daytime. The Foss spill occurred at night, and a boom was not deployed before the fuel transfer took place.

"This has been a traumatic event for all of our tribal members," Purser said. "Many tribal members were so sickened by what took place, that they couldn't even bring themselves to visit the beach."

Wandrey, however, couldn't stay away.

"I snuck down here the day after it happened, and said a few prayers," she said. "I felt like I had to do something."

– D. Friedel

# Clam Give Away Keeps Cultural Connection Strong

Puyallup tribal member Laura Sterud remembers when her family used to dig clams on the beaches around Tacoma. “I liked the butter clams the best,” she said. “I remember going out to the beach for hours, the sand would get whipped up by the wind and sting us in the legs.”

But now, with shoreline development gobbling up and degrading most of the beaches where her family used to go, Sterud talks about going “clam hungry.”

To ensure tribal members still have access to shellfish, the Puyallup Tribe gives away clams and oysters it grows on several beaches. “There aren’t a lot of places tribal members can go and dig, so we make sure that people have the opportunity to get shellfish regularly,” said Larry Moore, a member of the Puyallup Tribe’s shellfish committee. “These give aways are good for everyone.”



Laura Sterud holds a fistful of clams following a shellfish give away at the Puyallup Tribe’s administration building. Photo: E. O’Connell

On a recent give away day, the supply ran out in about an hour, even though each tribal member takes just a few clams and oysters to ensure as many as possible can get shellfish. “There will be more people coming looking for clams,” said Sterud, one of the last to get her bag filled. “They’ll be disappointed that they didn’t get any.”

The Rafeedie Decision in 1994 reaffirmed the tribes’ treaty-reserved right to shellfish. Many of the beaches that tribal members used to harvest shellfish from simply don’t exist anymore. For example, what used to be thousands of acres of productive clam beaches at the mouth of the Puyallup River is now the Port of Tacoma. “We’re right in the middle of the city,” said Sterud. “If we want clams, where do we go?”

“By seeding beaches, we can ensure tribal members have access to clams and oysters,” said Dave Winfrey, shellfish biologist for the tribe. “Hopefully, by continuing our enhancement efforts, no one will go away without enough shellfish.”

Even though shellfish has been harder to come by in recent decades, clams and oysters remain an important part of Puyallup tribal cultural events. “We always have clams at weddings,” said Sterud. “But, if we have to get a lot of them, we have to call up another tribe to get them.”

“We’re trying to pass our memories on to the next generation,” said Henry John, Puyallup tribal shellfish director. “It makes me feel good to see our children and grandchildren still enjoying our traditional foods. To me, it’s a connection to our culture, to who we are.

“Our people will always be that way; we will always be there when it comes to shellfish,” said John. “Shellfish will always be important to us.” – E. O’Connell

## Generations



Henry Allen, Skokomish tribal member, spear-fishes for salmon at the North Fork Falls on the Skokomish River in 1920. Watching Allen is Waldo Chase, a non-Indian schoolteacher, shown sitting on a rock in the middle of the picture. The photo was taken before the Cushman Dam was built. Photo courtesy of the Skokomish Tribe.



# Sequim-Dungeness Elk Harvest Levels Alarm Tribes, Citizens

A significant increase in the number of Sequim-Dungeness elk killed by non-Indian hunters has alarmed local citizens and tribal officials, who fear the harvest could jeopardize the herd's viability.

More than 50 animals in a herd that once numbered nearly 125 were killed this season. That's 20 to 25 more than should have been harvested, said Doug Swanson, wildlife biologist for the Point No Point Treaty Council. The council is a natural resource management agency that serves the Port Gamble S'Klallam, Jamestown S'Klallam and Lower Elwha Klallam tribes.

An increase in both the number of hunting permits and days allowed to hunt elk are the main reasons for the high harvest. Normally about 18 permits are issued each season for the Sequim-Dungeness elk herd, but this year the Washington Department of Fish and Wildlife (WDFW) issued 140 permits. Hunters were also granted additional days in January and February to hunt elk.

**'(Overharvest) threatens the continued viability of the herd.'**

– Doug Swanson  
Wildlife Biologist  
Point No Point  
Treaty Council

"This season's hunt has resulted in a drastic reduction in the elk herd's population," Swanson said. "Extending the season into January and February was unprecedented. That's when cows are within a couple months of dropping their calves, yet they were still being hunted by state hunters." In contrast, tribal hunters are only allowed to harvest cows for eight weeks in late fall and early winter.

Before the opening of the 2003-2004 hunting season, the herd numbered about 125 elk, said Swanson. The elk roam throughout urban and rural regions of the Sequim-Dungeness Valley, sometimes damaging agricultural crops and public and private properties. The tribes and the state agree that the size of the herd should be controlled, but cutting the herd nearly in half in one season is excessive, said Swanson.

"That threatens the continued viability of the herd," Swanson said. "What we need is an effective management plan for this herd and we are asking the state to work with us on that much-needed plan."



Almost half of the Sequim-Dungeness elk herd was harvested by non-Indian hunters this season. *Photo: D. Preston*

Conservation concerns prompted the tribes and a citizens group – the Sequim Elk Habitat Committee – to ask WDFW to cancel the February opening. WDFW agreed only to reduce February's hunt from 15 to 10 days.

For tribal members, the hunting season normally extends from August till the end of February. This season, however, the Lower Elwha Klallam Tribe ended their hunting season in January because of the large number of elk taken. On average, the tribal harvest is between three to six elk a season, said Swanson. This season tribal hunters only took one elk.

Unlike state hunters, tribal members do not hunt for sport. Tribal hunters harvest deer and elk for ceremonial and subsistence purposes, often sharing the meat with several members of the tribal community. Jamestown S'Klallam and Lower Elwha Klallam tribal members fulfill those community and family needs by harvesting elk from the Sequim-Dungeness herd.

"Compared to the state, the tribes' harvest is minimal," said Scott Chitwood, natural resources director for the Jamestown S'Klallam Tribe. "But when the overall harvest is as much as we are seeing this season, the tribe will take action to help sustain the herd. Sure, we want to provide harvest opportunities, but our primary concern is the overall health of this wildlife resource." – *D. Friedel*

## *Makah Tribe Seeks Rehearing Of Court's Ruling On Whaling*

The Makah Tribe has filed a second petition for a rehearing by the full 11-member 9th U.S. Circuit Court of Appeals of an earlier decision by the court that has prevented the tribe from exercising its treaty whaling right.

A friend of the court brief was also filed in support of the Makah by attorney Phil Katzen on behalf of 18 other tribes throughout the Northwest and the nation. The federal government also filed for a rehearing.

The ruling on the previous appeal for a larger panel of judges to hear the case took nearly a year. There is no time constraint on the court in this type of appeal.

# SRSC Road Project Benefits Salmon

People build roads to help them travel where they need to go. When roads on forestlands have been poorly designed or maintained, though, they can block another important journey – the trip nature intended fish to take.

Due to a lack of funding, some roads on U.S. Forest Service land that pose threats to salmon and trout have not been maintained for years. The Skagit River System Cooperative (SRSC), the natural resources consortium of the Swinomish and Sauk-Suiattle tribes, has stepped up to help fix these problems. Over the next two years, the tribal organization will upgrade or decommission about 25 miles of roads in the Sauk River area near Darrington. By preventing harmful sediment from flowing into valuable habitat, the project will benefit fish – including threatened chinook salmon and bull trout.

“Decommissioning roads is an underreported, but crucially important, part of salmon recovery,” said Lorraine Loomis, fisheries manager with the Swinomish Tribe. “Habitat is key for fish, and this work will help us provide high-quality habitat for all species of salmon.”

Based on studies of sediment problems in the Skagit River basin, SRSC chose to begin work in the Dan Creek and Sauk Prairie watersheds, which both drain into the Sauk River. The Sauk is the main tributary to the Skagit River, which produces most of Puget Sound’s wild chinook. Tribal staff completed field inventories in these watersheds last summer to identify roads that were most likely to contribute sediment to fish-bearing streams.

“Our road inventories showed us where the greatest risks for salmon and trout were: then, we designed a work plan to give us the biggest bang for our salmon recovery buck,” said Devin Smith, senior restoration ecologist with SRSC.



Road decommissioning and upgrade work by the Skagit River System Cooperative, such as removal of failing culverts, will help prevent catastrophic landslides that are harmful to fish habitat. *Photo: J. Shaw*

Older roads create drainage problems by re-routing natural groundwater and surface water patterns, typically through undersized or failing culverts. The culverts can plug with debris and divert water onto the road grade, or “blow out,” creating catastrophic landslides and debris flows. Drainage culverts can also be spaced too far apart, which can concentrate water flow and increase erosion.

SRSC work on these problem roads involves upgrading or removing culverts, stabilizing shaky slopes and altering road structures in a way designed to restore natural water flow. The work allows revegetation to occur as well, with alder trees and other native plants colonizing the disturbed earth.

When planning the restoration work, SRSC crews especially look for roads that cross inner gorges or are located on steeper slopes above creeks and sloughs, said Smith. These roads have the highest risk of failure and the greatest likelihood of harming fish habitat.

“Unstable road fill on a steep slope is like a bullet in the chamber of a gun,” he said. “When roads divert water drainage to these sensitive areas, it’s like pulling the trigger.”

Because steep slopes are at higher risk of landslide, the streams and sloughs below are uniquely in danger – a direct threat to fish that road treatments will solve. In addition, this work will reduce the amount of sediment runoff that will end up in the Sauk River, home to some of the precious few remaining healthy runs of all wild salmon species.

“Besides preventing catastrophic landslides and debris flows, this project will also restore natural drainage patterns and reduce surface erosion,” said Smith. “When we work on a road, we’re going to fix all the problems with it we possibly can.”

Completed in November, the first phase of the project decommissioned seven miles of road on Prairie Mountain and Gold Hill. Another 16 miles of roadwork will be completed in the same watersheds next year. Both phases of SRSC’s efforts are backed by a \$375,000 grant from the state Salmon Recovery Funding Board. – *J. Shaw*



# BOLDT

## Tribes Mark 30 Years Of U.S. v. Washington Implementation



Hoh tribal member Alvin “Harry” Penn tends his net near the mouth of the Hoh River. *Photo: D. Preston*

This February marked the 30<sup>th</sup> anniversary of a landmark event for fishing tribes in western Washington – a crucial chapter in the story of treaty rights for native people.

The story begins with five treaties between the U.S. federal government and the tribes, all of which included provisions preserving “[t]he right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the Territory.”

Since treaties with Indian tribes are declared by the U.S. Constitution to be the “supreme law of the land,” these rights took their place among the most hallowed American traditions. But unfortunately, these obligations were soon forgotten. After years of struggle, including public protests, the tribes were forced to seek defense of their treaty rights in federal court.

Using legal scholarship, historical information, testimony from tribal elders and other experts, U.S. District Judge George Boldt re-affirmed these rights, which had been violated for more than 100 years. On Feb. 12, 1974, his decision in *U.S. v. Washington* – the famous “Boldt Decision” – marked a new era.

A watershed moment for treaty Indian tribes in western Washington, the Boldt decision paved the way for cultural revival, economic regeneration, and sound ecosystem management. One generation later, the positive impacts of Boldt still reach throughout the entire region.

“Before the Boldt Decision, there was no meaningful fisheries management plan in this state — zero,” said Billy Frank Jr., chairman of the Northwest Indian Fisheries Commission. “The decision ensured that the tribes’ voice for ecological responsibility would be heard.”

Judge Boldt’s ruling set in motion a chain of events that culminated in modern co-management, where the tribes work



Billy Frank Jr.



Bob Kelly



Lorraine Loomis



Scott Schuyler

on equal footing with the State of Washington as joint managers of the area’s natural resources.

“We fought hard to be recognized as co-managers with the State of Washington,” said Bob Kelly, director of the Nooksack Tribe’s natural resources department. “The Boldt decision empowered the tribes to promote sound fisheries management and protect the habitat that salmon rely on.”

“Since the tribes have lived with the salmon for thousands of years, we have a long history of resource stewardship,” said Lorraine Loomis, fisheries manager with the Swinomish Tribe. “No one wants to save the salmon more than we do, and after the Boldt Decision, we were able to sit at the negotiating table and advocate for fish.”

It also ensured that the tribes, who had fished area waters since time immemorial, would continue to do so. For Scott Schuyler, natural resources policy coordinator for the Upper Skagit Tribe, tribal fishing is crucial to maintaining that cultural heritage.

“Fishing is essential to who we are as a people, to our identity,” said Schuyler. “Tribal fishermen today are trying to hold onto that legacy, and to make sure there are fish runs for our children.”

Ironically, just as courts re-affirmed the tribes’ fundamental treaty rights, habitat destruction and degradation throughout the state contributed to diminished salmon runs. Now, tribes catch fewer fish than they did before the Boldt decision, some 30 years ago. But this condition, tribal leaders say, just inspires them to fight harder for salmon recovery.



“We’ll do whatever we have to do to bring the salmon back,” Frank said. “We have always fished for salmon, and we always will.” – *J. Shaw*

## Voices Of The Boldt Decision

As part of the 30th anniversary of the Boldt Decision, *NWIFC News* asked a number of western Washington treaty tribal members to share some of their personal stories about how the Boldt Decision affected their lives, and offer their thoughts on the past, present and future of the Boldt Decision and tribal fisheries.



Merle Hayes

### Merle Hayes, Suquamish Tribe

The lawlessness on the water after the Boldt Decision was handed down is what Merle Hayes remembers most vividly.

“There was illegal fishing everywhere,”

said the Suquamish Tribe’s fisheries policy liaison and long-time fisherman. “Commercial fishermen just kept fishing and continued to illegally take salmon, and the State of Washington, of course, refused to enforce the law.”

Some commercial fishermen throughout Puget Sound brushed off the Boldt Decision and continued to harvest salmon beyond their fishing quotas for several years after. Those fishermen not only showed their displeasure by illegally filling their boats with fish, they also verbally directed their anger toward Indians, said Hayes. “Oh, there were threats – real threats,” Hayes said. “I remember tying up my boat in Ballard and hearing them. There were a lot of hard feelings.

“Boldt made an honorable decision,” Hayes said. “He gave my children and grandchildren a chance to experience what being an Indian is all about – fishing. Not everybody is willing to put those boots on and go out fishing, but for an Indian, it’s a love affair. It’s who we are.”

While some animosity might remain, times have changed. As salmon stocks have dwindled and commercial fishing shrinks in Puget Sound, the effort has turned toward repairing and improving salmon habitat, Hayes said.

Along with over-fishing, dams and logging practices have taken a toll on salmon, said Hayes. As more people move to the Pacific Northwest, the demand for housing and infrastructure will increase. That means less habitat for fish.

“We definitely need responsible growth,” Hayes said. “Without it, we’ll lose the salmon. Growth isn’t fish-friendly. And unless we teach fish to roller-skate, it’s going to be tough for more and more salmon to make it back to their streams.”

– *D. Friedel*



Will Henderson, left, and Bill Peters

### Bill Peters And Will Henderson Squaxin Island Tribe

Squaxin Island tribal elder Bill Peters was living in Alaska when news of the Boldt Decision reached him. “My mom and dad called and said they were going fishing,” he said. “I asked them why, and they said Boldt had said they could.”

Peters came back from Alaska in 1980, a year after the Boldt Decision was upheld in the Supreme Court. Almost immediately, he started taking part in the Squaxin Tribe’s chinook fishery in Carr Inlet.

When Peters was growing up, his family would fish Eld Inlet, making sure to keep a low profile. “Back then, we just fished for ourselves,” said Peters. “We couldn’t sell any fish or we’d get caught by game wardens. That’s what we used to live on years ago. Indians didn’t have any rights back then, though.”

Two years after coming home, Peters took his grandson Will Henderson out fishing for the first time. “We would take our children and grandchildren out to teach them how to fish, so they could fish when they grew up,” said Peters. “We teach them so we can keep the thing going.”

“I got into fishing as much as I could when I was younger,” said Henderson. At one point he was working full-time at a grocery store and fishing part time. “The store was bought out, and they gave me the option to stay on, but I decided to leave my job and fish. The market back then was pretty good, you could make a living out of fishing.”

In addition to crediting the Boldt Decision for continuing the fishing tradition in his family, Henderson also says the decision got more tribal members into natural resource related jobs. “A lot of us wouldn’t be working in fisheries if it wasn’t for Boldt,” said Henderson, the Squaxin Tribe’s enhancement manager. “Not only do we fish when we can, we work to protect fish for everyone.

“I often think about our ancestors who secured these fishing rights for us,” said Henderson. – *E. O’Connell*

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# Boldt

Continued From Previous Page

## Three Generations:

**Shannon Cargo, Makah Tribe**

**Alvin 'Harry' Penn, Hoh Tribe**

**Bonita Cleveland, Quileute Tribe**



Shannon Cargo

Shannon Cargo, 15, is part of the next generation of tribal fishermen. The Makah tribal member is one of a handful young people in Neah Bay who fish the rivers of the reservation.

While his mother, Cheryl Sones, told him the stories about the Boldt Decision, the history seems fuzzy and isn't at the forefront of the lanky teen's thoughts when he fishes. "My dad taught me all

the things I need to know. I think the hardest thing to learn is how to get the fish out of the net quickly and without damaging them – it's easy for me now, though. You learn a lot of patience fishing."

Cargo fishes fall and winter for coho, steelhead and chinook. Some of his catch goes to the fresh market; the rest he smokes and sells himself.

He isn't sure how fishing will fit into his life after high school. "I'll fish at least until I graduate. Then I'll have to see what happens. College is definitely an option," said Cargo, who participated in a tribal program that has piqued his interest in natural resources-related work.



Harry Penn

Alvin "Harry" Penn, on the other hand, purposely didn't teach his son how to fish. The Hoh tribal elder didn't see a future in it, even though he continues to fish himself. "My wife has always been angry that I didn't teach him to fish, but I saw where fishing was going a long time ago. I used to fish a couple of hours a day and that would take care of my expenses for the week," said Penn. "Now we're only fish-

ing two days, sometimes no days, and I spend 20 hours trying to get just a few fish."

For Penn, the Boldt Decision was useful to restore what rightfully belonged to the tribes, but it couldn't change the factors that have not only reduced the numbers of fish, but their overall health as well.

"It's the devastation of habitat, partly from the logging heydays, the historical over-harvest in the ocean, and the loss of all the feeder fish that salmon need to grow, among other things," said Penn. "We voluntarily cut back our fisheries and some years we didn't fish at all and it didn't help."

Despite his pessimism, Penn continues to work for the fisheries resource and the treaty-protected fishing rights of his people by serving as the fisheries policy person for the Hoh Tribe.



Bonita Cleveland

Bonita Cleveland, 47, understands the pessimism surrounding fishing today, but is glad her son fishes as she did and as the many generations before her did.

The Quileute tribal member has fished since she was a young girl, rising at dawn to help her brother and two sisters haul fish up the bank from her parent's boat on the Quillayute River. "Fishing is a way of life for our people," said Cleveland.

As part of that commitment to fishing, her parents, Chuck and Shirley Cleveland, took Bonita, 17, and her siblings to the Tacoma courtroom where Judge George Boldt heard the *U.S. v. Washington* case.

"I remember being kind of shocked that he was so old – and he seemed grumpy," she said. "But I also remember thinking his age was a good thing – that maybe he would listen to our elders tell their stories about fishing," said Cleveland.

"There was a feeling that everything was going to be great after the Boldt Decision – little did we know it was going to get worse before it got better," she said. Cleveland and 12 other Quileute fishermen were arrested by state enforcement officials for fishing on the Quillayute River system shortly after the Boldt Decision "They took our boats, our fish and our gear and handcuffed us," said Cleveland. "It was a scary time."

The Quileute Tribe was able to get the fishermen released before they were put in jail. The state eventually replaced the confiscated fishing gear and paid for lost fishing days. Vandalism of gear and boats continued for many years and continues sporadically even today.

Attending school in rural Forks, Cleveland endured racial slurs, but she chooses to focus on the improved relations of today and on passing tribal culture to the next generation. "I am so thankful that over the years, all things began to merge together like the rivers flowing into one. We found the common ground and began to rebuild trust once everyone understood the great concern for the resource," said Cleveland.

She embraced the Boldt Decision as a way for tribes to reclaim their position as co-managers of the resource. "It just affirmed the stewardship we've always practiced," Cleveland said. Over the years, she has served on the Quileute natural resources and fish committees, and as a cultural resources specialist. She continues to fish as she always has.

Cleveland knows much has changed, but one truth remains. "Fishing is a sacred way of life for our people. My family continues to fish – my son fishes and I would like to see his son be able to fish." – D. Preston

# Frank Receives 'Visionary' Award

Billy Frank Jr., 72-year-old Nisqually tribal member and chairman of the Northwest Indian Fisheries Commission for the past quarter century, received the first American Indian Visionary Award in Washington, D.C., Feb. 26, amidst accolades from tribal and U.S. officials and friends from throughout the nation.

A lot of water had passed under the bridge since Frank was first arrested by state game agents as a young man of 14. That arrest was followed by many more as he stubbornly fought for Indian fishing rights through the 1960s and early 1970s. Speaker after speaker at the ceremony said Frank's activism has benefited tribes and individuals near and far, as has his cooperative leadership efforts to protect and restore salmon and other resources in the Nisqually and beyond.

Appropriately, the award presented by the Indian Country Today (ICT) newspaper at the National Press Club is a glass salmon arching skyward as if jumping a waterfall. Speakers at the presentation included Senator Daniel K. Inouye (D-HA), Congressman Norm Dicks (D-WA), Nisqually Tribal Chair Dorian Sanchez, ICT Executive Editor Tim Johnson (Mohawk) and other representatives of the publication.

In accepting the award, Frank said, "We've been all fighting the battles of recognition for our tribes. Hopefully the fighting is over. But there is a lot of work left to do, in education, health and natural resources." He said the award acknowledges the hard work of many people through the years. He also had a special message for young people, telling them that when they choose to work toward the protection of salmon and the environment and other tribal legacies and rights, they should know such commitments take a lifetime. "It doesn't happen overnight," he said. "Be patient with what you have to do."

"In the humble opinion of our 2004 visionary award selection committee, there is no greater living example of required leadership attributes than Billy Frank Jr. You've honored us time and again with your unflinching belief in and your dedication to your tribal identity. You know who you are. Your achievements are recognized and resonate throughout all Indian Country through each and every day," said Johnson.

Throughout the evening Frank's contributions were heralded, from his role in the *U.S. v. Washington* (Boldt) Decision in 1974 to his unwavering role in the development of such cooperative processes as the U.S.-Canada Salmon Treaty and the Timber, Fish and Wildlife's Forests and Fish program. Sanchez joined several dozen tribal leaders and officials in a follow-up dinner, at which many spoke of Billy as their lifetime inspiration, and a legend in Indian Country.

Sen. Inouye referred to Frank as his mentor in learning about the tribes. "He has stood in harm's way for Indian Country all his life," Inouye said.

— S. Robinson



Billy Frank Jr. receives the American Indian Visionary Award in Washington, D.C. Photo: S. Robinson

## Passages

### Francis F. 'JB' McCrory

Francis Frederick "JB" McCrory Sr., an expert witness in the Boldt case, died Feb. 20, 2004, in his home. He was 84.



JB McCrory

McCrory, a member of the Quinault Indian Nation, was born August 23, 1919, in Hoquiam, to Nina (Charley) and Vernon D. McCrory and raised by his mother and stepfather Wallace Bumgarner.

He was a direct descendent of Chief George Allan Charley. During his expert testimony in *U.S. v. Washington*, he testified regarding the Quinault tribe's history of self-regulation and authority. He worked for his tribe in many ways, including serving as secretary of the Quinault Business Council, school board director, chairman of the Quinault Fish and Game Commission, Quinault Tribal Planning Commission, Housing Commission and the Enrollment Committee. He dug the original water lines in Taholah in the 1930s and maintained the water treatment system until retiring in 1997. He was one of the tribe's historians and was an avid photographer with a substantial collection of photographs.

He was a World War II veteran, decorated with a Bronze Star after serving in Guadalcanal and other areas of the South Pacific.

Mr. McCrory married Sharon Simmons on June 14, 1949, and she survives him in their family home in Taholah. Along with his work for the tribe, he worked for ITT Rayonier for 23 years.

Besides his wife, survivors include five daughters, four sons, 24 grandchildren, and 19 great-grandchildren.





## Dumping Threatens Tribe's Shellfish Resource

The heart of the Squaxin Island Tribe's shellfish resource was threatened when hundreds of thousands of gallons of sewage were dumped near a creek that flows into Oakland Bay. "That bay is where 90 percent of our clams and oysters come from," said Jim Peters, natural resources director of the tribe. "This is almost like dumping sewage into our kitchen."

George Harmon, owner of D&E Septic Services, was arrested in late January for dumping more than 350,000 gallons of untreated sewage over a year's time into the headwaters of Malaney Creek. Immediately after the dumping became public, the tribe and the State of Washington agreed to close a large portion of Oakland Bay, severely limiting tribal shellfish harvests.

"Even though it means we have to take fewer clams right now, we won't risk harvesting where there is a problem," said Peters. "After we find out exactly what level of harm was caused, we need to clean that mess up."

Early results from water samples taken in the creek and Oakland Bay indicate that the sewage is having little impact on the local environment.

The Squaxin Island Tribe is working with the state to develop a cleanup plan for the site. The tribe has also expanded its water quality monitoring on Malaney Creek, watching for any problems that might arise before a cleanup is finished.

## Skokomish Seek Grant To Help Hood Canal Marine Life

The Skokomish Tribe is seeking federal funds to help combat low-oxygen problems that are increasingly plaguing the southern reaches of Hood Canal.

The tribe, in collaboration with state agencies and the University of Washington, submitted a watershed initiative in January to the Environmental Protection Agency (EPA). If awarded the funds from the EPA, the tribe plans to step up its monitoring effort throughout the canal.

The tribe's strategy includes developing a model, which would analyze the data from that effort, and help pinpoint the problem areas and possibly predict when a low-oxygen event might occur. Information that might predict such an event could also go toward helping to remedy the situation.

Last year, thousands of fish, shrimp and crab died in Hood Canal after extremely low levels of dissolved oxygen choked marine life. Other deepwater species, such as rockfish, tried to escape the unhealthy depths by swimming to shallower water, which left them vulnerable to predators. In response, the Skokomish Tribe increased its monitoring efforts last summer by taking additional water samples and oxygen readings in the canal. Now the tribe is seeking the \$1.1 million grant from the EPA to boost that monitoring effort.

## Quileute Tribe Teams Up To Improve Salmon Passage

The Quileute Tribe recently celebrated the completion of a cooperative project that replaced two fish-blocking culverts on a tributary of the Bogachiel River with a \$450,000 concrete bridge. The tribe and landowner Rayonier worked together to complete the project, opening up more than seven miles of stream to all species of salmon and trout.

"Forestry that provides for the needs of fish and wildlife has made a dramatic turnaround since the 1980s," said Mel Moon, natural resources director

for the Quileute Tribe. "We've done a number of cooperative projects with Rayonier and this is just another good example of the positive things that can be done cooperatively."

"It was one of the more expensive replacements, but it also opened a lot of habitat," said Moon. "That's a productive stream that will be even better now and a bridge is a more long-term solution than more culverts."

## Court Of Appeals Agrees To Reconsider Tribe's Claim

The 9<sup>th</sup> U.S. Circuit Court of Appeals will reconsider its rejection of the Skokomish Tribe's \$6 billion claim against the City of Tacoma's Cushman Hydroelectric Project.

The tribe's lawsuit claims that the City of Tacoma did not obtain a proper license to build two dams on the Skokomish River, violating the tribe's fishing rights.

"This is good news," said Dave Herrera, fisheries manager for the Skokomish Tribe. "The court has vacated an earlier ruling by a three-judge panel, giving us an opportunity to re-argue our case."

The tribe filed the \$6 billion lawsuit in 1999, claiming Tacoma did not obtain the proper license to build the two dams. According to the tribe, those dams – at Kokanee Lake and Lake Cushman – violated the tribe's treaty-reserved fishing rights by diverting the Skokomish River and destroying salmon populations that tribal members rely on culturally and economically.

In an attempt to provide more suitable habitat for salmon, the tribe also has asked the Federal Energy Regulatory Commission to increase water flows in the Skokomish River from the Cushman Dam while the dam's licensing process is reviewed.

# Nisqually Tribe, Army Restoring Muck Creek

Muck Creek may be small, but it supports a huge run of chum salmon. “Muck Creek is home to about a third of the chum salmon that are produced in the Nisqually River watershed,” said David Troutt, natural resources director of the Nisqually Tribe. “It has historically been one of the most productive chum streams in the Puget Sound.”

This winter the Nisqually Indian Tribe and Fort Lewis will plant over 15,000 native trees and shrubs to prevent the resurgence of reed canary grass, an invasive weed. Imported to the area as a cattle feed years ago, the non-native grass had choked salmon access to much of Muck Creek until it was removed recently.

“Removing the canary grass is one thing, but to ensure that it doesn’t come back, you have to restore the trees around the creek,” said Florian Leischner, salmon recovery biologist for the Nisqually Tribe. “Reed canary grass can only grow in areas that have plenty of sunlight. If you cut off the sun, you cut off the grass.”

“A major priority of our management strategy for Muck Creek is restoring the riparian habitat along the creek and controlling reed canary grass infestations,” said David C. Clouse, habitat biologist for Fort Lewis. “Many sections of the riparian zone along Muck Creek are in good shape, and used as templates as far as species to plant and density of plantings.

“Riparian plantings along Muck Creek have been conducted since the early 1980s involving staff personnel, volunteers, the Nature Conservancy, and the Nisqually Tribe,” said Clouse. “The grant we received will significantly add to our previous and on-going efforts to restore riparian habitat along Muck Creek, and ultimately control the level of infestation by reed canary grass.”

“Restoring the connections between historic spawning sections of Muck Creek will do a lot of good for salmon runs throughout the Nisqually River,” said Leischner. “A strong chum population in Muck Creek will provide a backup to populations elsewhere.”

The project is being funded by a Department of Defense grant through Fort Lewis.

Two years ago, the Nisqually River and Muck Creek saw a record chum run. “That was a historic year,” said Troutt, adding that it likely had more to do with the tremendous ocean conditions rather than freshwater habitat improvements. “To take full advantage of good ocean conditions now, we need to do as much as we can to restore our streams and rivers,” he said.



Jimson Dunstan, Nisqually, places a young tree along the bank of Muck Creek. Photo: E. O’Connell

Historically, the Nisqually Tribe had a permanent village on the banks of Muck Creek where it meets the Nisqually River. “This is one of the most important places for the tribe,” said Georgianna Kautz, Nisqually tribal natural resources manager. The village was located between two stable food supplies, the camas prairie inside what is now Fort Lewis and the chum salmon of Muck Creek.

Cooperation between the Nisqually Tribe and Fort Lewis is essential to the success of this project. “The tribe and the fort have a long and successful history of working together,” said Troutt. “We are happy to have such good environmental stewards as neighbors.” – E. O’Connell

## Muck Creek Fast Facts

- “Muck” or “Muckamuck” is a Chinook jargon word meaning food or “to eat.” In reference to a geographic area it also indicates that either fish (in reference to a water body) or camas bulbs (in reference to a prairie) are available.
- While a relatively small tributary in terms of flow, Muck Creek is the largest tributary in terms of basin size (93 square miles) in the Nisqually watershed.
- Muck Creek flows about 30 miles from southern Pierce County, past the City of Roy, and through Fort Lewis before joining the Nisqually River.
- Nisqually River chum are unique as the latest running chum run in the world. The run peaks around Christmas, while most other Puget Sound chum runs peak almost a month earlier.

# Puyallup Tribe Surveys Eagle Populations

More bald eagles are calling the Puyallup River watershed home, and the Puyallup Tribe of Indians wants more to come south every year. “It seems that there are more bald eagles using the Puyallup as a winter home than the last time surveys were done regularly,” said Barbara Moeller, wildlife biologist with the Puyallup Tribe of Indians.



A bald eagle surveys its domain.  
*Photo: D. Preston*

This winter Moeller conducted the first comprehensive survey of bald eagles along the Puyallup River in more than a decade. “On just one float down the Puyallup, we saw as many as 60 eagles,” she said. During earlier surveys on the Puyallup River in the 1980s, counts ranged from a low of three to upwards of 20.

In addition to keeping tabs on their numbers, the tribe also gives the eagles an incentive to make the Puyallup River their winter home by distributing up to 10,000 chum carcasses in the upper watershed.

“Bald eagles start coming south to the Puyallup at pretty much the same time salmon runs are peaking,” said Moeller.

“This basic data collection helps ensure bald eagles can continue to be protected,” said Moeller. Since the banning of the pesticide DDT in the 1970s, bald eagle populations have been increasing nationwide. After changing their status from “endangered” to “threatened” in 1995, the federal government recently petitioned to remove the bald eagle from the protection of the Endangered Species Act.

“Even though more bald eagles have been coming back here, they still face pressure from development,” she said. “Most of the development in the Puyallup watershed is near the river, the same place bald eagles nest, feed and roost. By mapping where bald eagles live, we can protect them more effectively.

“Without protected, isolated areas around the river to build nests, roost, and feed, bald eagles might not continue to successfully reproduce, resulting in fewer eagles returning along the Puyallup.” – *E. O’Connell*



A silhouetted bald eagle soars over tree tops. *Photo: J. Shaw*



Barbara Moeller, wildlife biologist, floats the Puyallup River near Orting during a bald eagle survey. *Photo: E. O’Connell*

## Bald Eagle Fast Facts

- Scientific name: *Haliaeetus leucocephalus*, which means “white-headed sea eagle.”
- Bald eagles are one of the largest birds of prey in the world with a wing span of up to 8 feet. Bald eagles measure about 3 feet tall and weigh up to 15 pounds.
- Fish compose 60 to 90 percent of the bald eagle’s diet.
- Bald eagles usually build nests in the tops of giant trees. A nest is enlarged annually and can become the largest of any North American bird. The largest nest ever recorded was 20 feet deep, 10 feet wide, and weighed two tons.
- Bald eagles can live up to 50 years in captivity, and in the wild may live up to 30 years.
- Bald eagles formerly lived throughout North America, but now breed mainly in Canada and adjacent states and Florida.



# Flood Slashes Dungeness Pink Run

## *River's Loss Of Natural Function Worsens Problem*

Floodwater that surged through the Dungeness River two winters ago not only wreaked havoc on private property, it also decimated the river's pink salmon run.

Preliminary numbers show only about 15,000 pink salmon returned to the Dungeness this last summer to spawn. That's far below the tribe's forecasted mark of about 165,000 pinks, said Scott Chitwood, natural resources director for the Jamestown S'Klallam Tribe.

"It's obvious that the 2002 flood, which was one of the highest recorded flows on the Dungeness River, wiped out a large number of pink salmon eggs in the river that year," Chitwood said. "We know it had a dramatic effect because this last summer's pink salmon run – salmon that hatched from the eggs that did survive the flood – was extremely low."

**'If the Dungeness River's channel was any semblance of its former self, we might not have lost so many pink salmon redds from this flood.'**

*– Scott Chitwood  
Natural Resources Director  
Jamestown S'Klallam Tribe*

More than 80,000 pink salmon spawned in the Dungeness River in 2001. A few months later floodwaters rushed down the Dungeness River, washing away gravel and scouring the river channel. The force of the water destroyed pink salmon eggs throughout the riverbed. Salmon that did survive that flood returned to the Dungeness in 2003. The majority of pink salmon in the Pacific Northwest return to their native streams to spawn in odd numbered years.

While flooding is a natural function of the Dungeness River, the situation has been made worse over the years as dikes have been constructed along the lower portions of the river and some parts of the riverbed have been dredged.



Flooding on the Dungeness River in 2002 not only destroyed property, it also wiped out pink salmon eggs in the riverbed. *Photo: Jamestown S'Klallam Tribe*

Dikes and armored banks constrict the river and increase the velocity of the river's water flow. That wipes out salmon spawning beds and eliminates off-channel rearing habitat important to the fish.

"If the Dungeness River's channel was any semblance of its former self, we might not have lost so many pink salmon redds from this flood," Chitwood said. Redds are gravel nests built by spawning salmon throughout the riverbed. "If the lower stretch of the river had the ability to spread out over the floodplain, there would not have been such a scouring event wiping out the pink salmon redds."

Along with pink salmon, the Dungeness River supports chinook, chum, and coho salmon, and steelhead and bull trout. The chinook, summer chum and bull trout populations are all listed as "threatened" under the federal Endangered Species Act.

In an attempt to restore the lower reaches of the Dungeness River, Clallam County with guidance from the Dungeness River Management Team – of which the Jamestown S'Klallam Tribe is a member – is in the process of purchasing from willing property owners land near the river's mouth. Known as the River's End Project, the goal is to purchase the land, restore the critical river-to-estuary habitat and move the dikes back, allowing the river to flow across the floodplain.

"That would restore important habitat along the lower river, which is vital to juvenile salmon transitioning from fresh to salt water," Chitwood said. "Some salmon would still be vulnerable during large floods, but if the river can function more naturally the impact to those fish will be significantly smaller." – *D. Friedel*

# Fish Return Following Dam Removal

When the Makah Tribe removed a small dam north of Neah Bay in August 2003, no one could have imagined the test Mother Nature had in store for the project.

One month after the dam on Wa'atch Creek was demolished, 7 inches of rain fell in 48 hours in Neah Bay, turning the gurgling stream into a torrent of water and mud. A similar storm happened less than a month later.

"Those are the kind of flood events this stream would normally see once in 20 years," said Jeff Shellberg, a hydrologist for the Makah Tribe. "It was a real test of how well the wood we placed in the stream would work as sediment filters and how the stream would heal itself using its own erosive energy after the dam was removed."

The tribe demolished the 20-foot dam on Wa'atch Creek last summer at a cost of \$150,000, opening a mile of fish habitat. It had blocked fish passage for more than 50 years. The dam was built by the U.S. Air Force to increase the water supply to the base. Sediment from logging operations in the hills above the dam partially filled the reservoir just before the Air Force abandoned the base in the late 1980s.

"It's been a humbling experience watching a stream cut through 6 to 8 feet

of silt and clay over six months and moving an enormous amount of sediment out to sea in a very short period of time," said Shellberg. Even with the dramatic rainfall and huge amount of sediment being moved out of the stream, adult coho were seen throughout the entire creek this fall. Tribal biologists were concerned that fine sediments might suffocate salmon eggs in the creek but found that those sediments had mostly washed out to sea.

Helping the stream to heal itself is an approach rarely used in other dam removals. Large logs were placed both in the reservoir behind the dam and in the stream below to act as sediment filters. The logs were not cabled into place but allowed to move naturally including making larger logjams downstream.

The tribe gathered baseline information before the dam was removed and has monitored the stream throughout the project. Biologists will continue to record information for up to five years.



Jeff Shellberg, Makah Tribe hydrologist, walks the streambed of Wa'atch Creek where a fish-blocking dam once stood. *Photo: D. Preston*

"This project will show we can let the stream do its own restoration work without a lot of human engineering," said Shellberg. "It substantially reduces the cost for a project like this, which might encourage the removal of other small dams. In time, this little stream will produce as many fish as the most productive streams on the Olympic Peninsula."

– D. Preston

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