

BILLY FRANK JR., from page 12

“There was six of us that actually kept going back to jail,” Frank Jr. once recalled. “We kept defying the state of Washington and the state judges. These sportsmen were shooting at us down at the mouth of the river. You could hear them spraying the boat.”

The Boldt Decision

After years of demonstrations, fish-ins and arrests, plus some help from actor Marlon Brando, a breakthrough finally occurred. In 1974. The notoriously conservative Judge George Boldt delivered a ground-breaking decision in favor of native fishermen in U.S. v. Washington. In 1969, Judge Belloni in Oregon had ruled that tribes were entitled to a “fair share” of the fish runs. Now Judge Boldt ruled that a “fair share” meant a full 50 percent of all harvestable fish belonged to the tribes. Boldt also ruled that tribes had a right to self-regulate their fisheries, and the right to co-manage natural resources.

The second phase of US v. Washington was another victory for the tribes. In 1980, Judge Orrick ruled that the government’s duty to protect Native fishing rights is also a duty to provide suitable salmon habitat. Sixteen businesses supported an appeal of the decision until Frank Jr. convinced the National Congress of American Indians to retaliate with a boycott. Mike Berry, president of Seafirst Bank, later described that legal action as kicking over a hornet’s nest. The companies backed down and were persuaded to join a new mediation and dispute resolution initiative called the Northwest Renewable Resources Center.

According to Charles Wilkinson, a law professor at the University of Colorado, “You can’t understand American justice fully without understanding the Boldt Decision. It is that paramount. It holds that high a place in our legal system and in our history and in our collective national consciousness.” Wilkinson continues, “This is American justice at its absolute highest: where you have established, wealthy, vested interests, and poor people – dispossessed people who have nothing to hang their hat on other than a treaty 120 years earlier that many are saying is outmoded.”

But the backlash from white fishermen was swift. Slade Gorton, Washington’s Attorney General, fueled the fire by promising he would overturn the Boldt decision at the

Supreme Court. Within weeks, 700 people marched in front of the U.S. Courthouse in Tacoma, parking their boats on trailers, and hanging an effigy of Judge Boldt from a tree. Commercial fishermen declared “reverse discrimination” and called themselves “the forgotten majority.” Multiple assaults were documented against officers enforcing restrictions on white fishermen, and their patrol boats were rammed. One gillnetter commented, “It was kind of a shock to realize we were going to have to share this with somebody else.”

Attorney General Slade Gorton argued before the state Supreme Court that the Boldt decision was racially biased in favor of Native Americans in violation of the 14th Amendment – the law that freed African slaves. The state Supreme Court agreed with him, and held that the Department of Fisheries could not follow the federal ruling without violating the equal rights of non-Indians.

In the meantime, Frank Jr. and Adams traveled to Portland for the first convening of the Puget Sound tribes as they hammered out a plan to manage their fisheries. The original conception of what would become the Fisheries Commission was exceedingly narrow and did not please the renegade fishermen.

“I told ‘em I was tired of having the treaty fishermen treated as a criminal class – that wasn’t the purpose or intention of U.S. v. Washington – it was to improve management of resources,” Adams explains.

“I said, just look at your charts – they’re all directed towards whose gonna arrest the Indian fishermen now. And I tore the charts,” Adams said with a laugh. “I told ‘em when I tore the charts down, you’re gonna have to start all over.”

As the first chairman of the new Northwest Indian Fisheries Commission (NWIFC), Frank Jr. was curt in his dismissal of the state’s Supreme Court opinion, calling it “plainly rooted in racism and dedicated to the proposition of white supremacy.”

The NWIFC responded by demanding the federal government assume control of the state fisheries. On Sept. 1, 1977 Judge Boldt did just that, sending in U.S. marshals from around the country.

But the federal government also took other steps to defuse the anger of white fishermen – they reduced the tribe’s share of fish by 5 percent, and later recommended a new deal

that reduced the tribal allocation even further and proposed to replace ancestral fishing grounds with smaller commercial management zones managed by the tribes, while asking tribes to give up commercial fishing for steelhead altogether – which was highly coveted by sports fishermen.

The Boldt Decision was later upheld in the U.S. Supreme Court in July 1979, and some of the anger began to fade. In addition to upholding the native right to fish, the court highlighted “the state’s extraordinary machinations in resisting the decree.” According to the court, “except for some

Billy Frank Jr.’s Legacy

In 2014, Governor Jay Inslee signed a law that helped overturn convictions prior to the 1974 Boldt decision.

“I’m thankful Billy was here to see the 2014 Legislature pass a bill helping to overturn convictions from treaty protests,” Inslee said. “Billy was right on this issue and the state owed this gesture of justice to him and others who jeopardized their liberty to fight for treaty rights.”

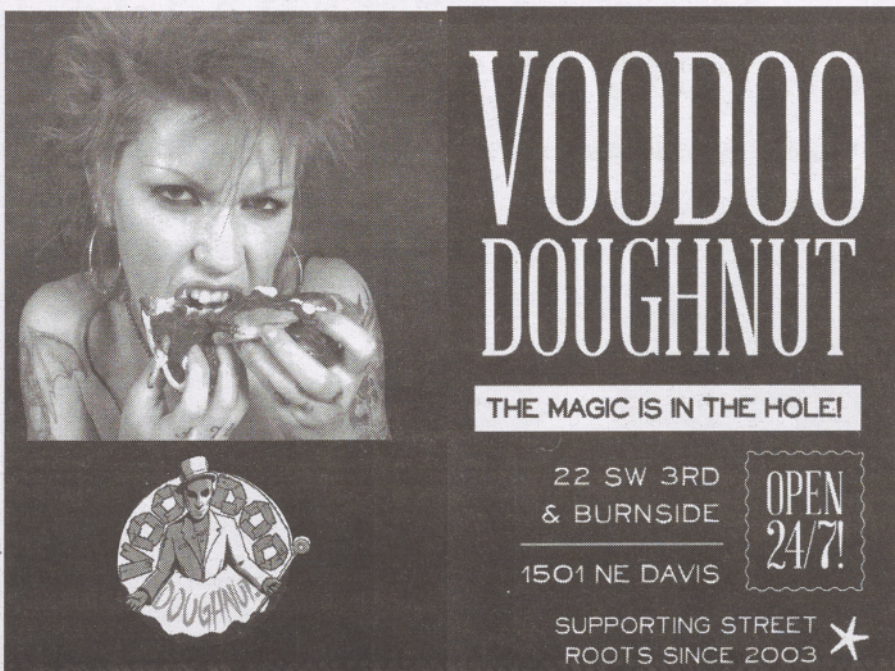
Within the past five years, some of the world’s largest demolitions of hydro-dams have taken place in Washington State – largely due to this earlier movement for indigenous self-determination. Billy Frank Jr. was there to celebrate the removal of the Elwha Dam in 2013. Two years earlier, the Condit Dam on the White Salmon River had been the largest ever removed in the United States.

In a statement on the passing of Billy Frank Jr., Paul Lumley of the Columbia River Inter-Tribal Fish Commission wrote, “His impacts knew no boundaries and were often felt from the streams of the Pacific Northwest to the halls of Washington D.C. Frank Jr. was a living icon whose legacy will be seen in every fish return, every tribal fishery, and every battle for those resources that has yet to be fought.”

desegregation cases ... the district court has faced the most concerted official and private efforts to frustrate a decree of a federal court witnessed in this century.”

Since the Boldt decision, Frank Jr. and his allies recognized that protecting salmon habitat would be the next major issue facing fishermen.

Since the high-point of the fish-ins the battle lines have included everything from logging companies to hydro-electric dams, and from poorly designed roads and culverts to the all-encompassing threat of climate change. Since the recent undoing of the crude oil export ban, oil trains pose an even bigger threat to safety and watershed restoration across the region.



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