

# Treaty rights protect steelhead, salmon

A bill currently in Congress, S874, the "Steelhead Protection Act," would remove Indian treaty rights, cause the American taxpayers to pay millions of dollars to buy treaty-secured Indian property right to give it to sports fishermen, and would allow the destruction of the environment. Among the sponsors of the bill are Representatives Gorton and Bonker of Washington State and Representative Les Au Coin of Oregon.

The stated purpose of S874 is to make Steelhead a game fish and thus remove it from the commercial fishery of the Indian tribes, prohibiting Indians from fishing for Steelhead on or off the reservations.

The Columbia River Inter-Tribal Fish Commission, made up of representatives of the Treaty Indian tribes, charges that the intent of the bill is to abridge fundamental constitutional rights of native people.

### TRADITION

For thousands of years the Indian people have used Steelhead along with the various types of salmon that passed their fishing grounds. According to Nathan Jim, representative of the Confederated Tribes of the Warm Springs Reservation, the winter run was used primarily for food during the period before the spring chinook arrived. Steelhead oil was also used to preserve salmon. The salmon was pounded powder fine and mixed with Steelhead oil, then stored in balls in Steelhead skin. These balls of pemican could be stored for long periods and were used for trade with Indians from the Great Plains and the Coast.

"The Steelhead is a brother to the salmon," he explained, "To the Indian they are one fish." Steelhead are used, along with the salmon, for ceremonial purposes - at naming ceremonies, weddings, and in feasts in respect to the food that provides for them.

### TREATY RIGHTS

The Indians were declared "human beings" and the owners of the land by the early Spanish Church. The U. S. Northwest Ordinance of 1787 guaranteed the liberty and property rights of the Indians - the reason being that if the Indians owned the land it could be obtained from them. Early Supreme Court decisions determined that Indian tribes were sovereign nations - distinct, independent communities - that retained their identities as independent nations within the United States, and that they have the right to self-government.

Treaties "made in peace and friendship" transferred the land owned by the Indians to the American government - considered a necessity by the government in order to protect American citizens who were moving onto land owned by the Indians.

The Indians retained their right to hunt and fish on the land remaining in their control - the reservation lands. They also retained the right to fish "in common" with other citizens at their usual and accustomed fishing places. The US government has the responsibility to protect those rights.

During the 1960s and 1970s a long series of scriminishes among Indian and non-Indian fisherman and between Indian fishermen and the States of Oregon and Washington took place. This resulted in several

federal court decisions outling the Indian's fishing rights.

The *Puyallup* decision found that the treaty rights of the tribes cannot be subordinated to the State laws, but that the State can make necessary and reasonable regulations for conservation of the fish. These regulations can be applied only after all other alternatives have been used.

The *Puyallup Tribe v. Department of Game* (1973) interpreted the treaty rights to include taking Steelhead for commercial purposes.

The *Boldt Decision* interpreted the words "in common with" to mean that the treaty tribes have a right to one-half of the fish.

In 1979 the US Supreme Court confirmed that the right meant one-half of all the fish of each run destined to pass the usual and accustomed fishing places.

Phase II of *United States v. Washington*, states that the tribes have a right to one-half of the hatchery fish since they are replacement fish.

It also contained the far-reaching decision that the right to take fish means the right to have fish, so gives the treaty tribes the right of freedom from degradation of the habitat. This means that treaty tribes can prevent any construction, dams, forestry, road building, pesticide use or any other activity that would destroy the breeding grounds of the fish.

### FIVE YEAR PLAN

In 1977 the tribes agreed to a Five Year Plan where they would de-emphasize steelhead since it is important to recreation fishermen, and in return would be guaranteed an increased harvest of salmon.

Since the agreement, the catch of Steelhead has declined from 32,000 in 1977 to 5,600 in 1980. However, the salmon catch has declined every year, dropping from 121,000 chinook in 1976 to 23,000 in 1980. Even so, the tribes gave non-Indian fishermen 60 percent of the Spring salmon catch.

Although the Indians were guaranteed that the fish runs would increase, twenty year records show just the opposite. At Bonneville Dam the steelhead run has decreased by 2.3 percent; fall chinook by 8 percent; spring chinook by 48.6 percent; summer chinook by 52.3 percent; coho by 64.7 percent, and sockeye by 14.6 percent.

At the fish Snake River Dam, Ice Harbor, the statistics are even worse. Fall chinook has decreased 84.6 percent; spring chinook 75.2 percent; summer chinook 84.5 percent; coho 96 percent, and sockeye 96.3 percent.

The government has not provided the hatcheries promised to increase the salmon runs, has over emphasized steelhead hatcheries, and has shipped upriver chinook and coho eggs to other parts of the US and to other countries.

While salmon runs are being depleted by the dams, destruction of the habitat, and ocean harvest, the steelhead is surviving and should be used to make up the deficit in the Indians allowable catch. The steelhead is a hardy fish that can better survive the torturous passage over the Columbia and Snake River dams and furthermore, aren't subject to ocean fishing.



Native Americans protest introduction of S874 which attempts to remove treaty fishing rights.

(Photo: Richard J. Brown)

### IMPLICATIONS FOR NON-INDIANS

S874 would take from the treaty tribes their property rights. The 5th Amendment to the US Constitution protects citizens against confiscation of property without compensation. Therefore the bill would force the taxpayers to spend billions to take the property of Indian tribes, only to give it to sports fishermen for recreation purposes. This also has serious constitutional implications since private property can only be seized for public use, while this bill would seize property for private interests - sport fishermen.

The bill is seen by Indians as just one of a long series of efforts by the State of Washington and its officials to abrogate their treaty rights. The Ninth Circuit Court of Appeals and the U.S. Supreme Court have decided the manner in which Washington resisted enforcement of treaty rights. The bill is an attempt to remove those rights.

Because steelhead travel with salmon, giving the right to regulate steelhead to the states would lead to an attempt to regulate salmon fishing contrary to the treaty rights.

If the Indians lose the right to take fish, they also will lose the right to have fish to take. They will lose the right to protect the habitat.

The Puyallup Phase II Rights - the right to protect the habitat - is a prime concern to all citizens. The right of Indians to protect the fish is the only right to protect the habitat that exists.

## Hear jazz

"Your Zoo and All That Jazz" summer concert series at Metro's Washington Park Zoo continues. The third concert will be held on Wednesday, July 8 and will feature the Simon and Bard Group with Paul Wertico and Larry Grey. Bring your blanket folding chair and picnic dinner (or purchase food and beverages at the concert) and relax for an evening of classical and straight ahead jazz.

Concerts are free with regular zoo admission. Parking problems? Take the special Tri-Met shuttle bus from the Sylvan/Westgate business area parking lot right to the zoo for 25¢ per person each way. "Your Zoo and All That Jazz" concerts are presented as a community service by Meier & Frank Company. For more information call 226-ROAR. In the event of rain, concerts will be held the following Thursday nights, same time.

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## From the Front Door

By Tom Boothe

From The Front Door, I see those who follow along the course of: Cleanliness, Caring, Courtesy and Completeness. Even as in Nature the same courses are followed.

We might equate Winter with an act of Cleanliness; Spring an act of Caring; Summer an act of Courtesy; Autumn an act of Completeness.

But, then I see those who do not follow this course. They are those who are not clean and they practice Dirtiness; there are those who do not care, and they practice carelessness; there are those who are not courteous, they practice rudeness and arrogance and are merciless; and there are those who do not complete what they start, and they practice incompleteness.

These individuals will always Criticize, Complain, and find "Blame Factor" excuses; but most will change given enough time and encouragement.

I find that there is a great advantage in following the course of Cleanliness, Caring, Courtesy and Completeness. Even, as in Nature this is the course of Power, Production and Performance, the position of giving. Those who follow this course are in charge and hold great power over those who are less clean, and those who do not care as much, and those who are not as courteous, and those who do not complete much of what they start; their position is one of consuming. It is better to give, than to consume, or be consumed.

When and if you feel oppressed and victimized, it may be that you are on the wrong course. The way to change courses in the Right direction, is to practice and demonstrate more Cleanliness, more Caring, more Courtesy and more Completeness.

Exodus Clean Team Meeting each Wednesday at 7:00 P.M.

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