

A Tribal History of Natural Resource Management

From —Shadow of the Salmon| curriculum guide

This adapted appendix from "The Shadow of the Salmon" curriculum guide provides an overview of tribal history, specifically as it relates to natural resource stewardship. We recommend that you contact the tribes in your area to gain greater insight into this subject.

Introduction

In the Pacific Northwest, Native people lived, worked and enjoyed life for thousands of years before non-Indians came to the region. Indeed, Indians have respected and cared for the natural resources of the Pacific Northwest since the great Ice Age. Through the centuries, they shaped their existence around salmon and other natural resources provided by the Creator to sustain them. The meat kept them healthy, as did the spiritual and cultural strength they derived from these resources. Tribal customs and ceremonies have always reflected harmony with Nature, kinship with its elements, and deeply felt gratitude for the gifts provided by Mother Earth.

Thus, for thousands of years, the tribes have practiced conservation. They have provided for the escapement of fish to the spawning grounds prior to commencing the harvest. Long before non- Indians ever set foot on this land, tribes restocked streams affected by drought and other natural causes. Indian people have always known that all things are connected—the river with the land, the fish with the fishers, and so on. In 1854, Chief Sealth (Seattle) expressed belief in these things as recorded in the Seattle Sunday Star:

"Every part of this country is sacred to my people. Every hillside, every valley, every plain and grove has been hallowed by some fond memory or some sad experience of my tribe...the very dust under your feet responds more lovingly to our footsteps than to yours, because it is the ashes of our ancestors, and our bare feet are conscious of the sympathetic touch, for the soil is rich with the life of our kindred."

The Impact of Euro-American Settlement

...In the 1850s, the United States entered into treaties with many Indian tribes as part of the settlement of the West. In the treaties negotiated by Territorial Governor Isaac Stevens, the Indians traded their land interest for the exclusive use of the lands within reservations, the right of continued fishing, and other guarantees. Through the treaties, the tribes gave up most of their land, but also reserved certain rights to protect their way of life:

—The right of taking fish and usual and accustomed grounds and stations is further secured to said Indians, in common with all citizens of the United States; and of erecting temporary houses for the purposes of curing; together with the privilege of hunting on open and unclaimed lands. Provided, however, that they shall not take shell-fish from any beds staked or cultivated by citizens.¶ (Treaty of Point No Point, January 26, 1855)

The promises of the treaties were quickly broken in the decades that followed, as the tribes were denied their treaty-protected rights by the State of Washington. The struggle to obtain recognition of those rights climaxed in the —Fish Wars¶ of the late 1960s and early 1970s, when tribal members were arrested and jailed for fishing—which at the time was against state law.

Treaty-protected rights had largely been forgotten by non-Indians, but never by the tribes. Federal and state governments allowed rapid development of cities and dams for electric power, unchecked logging and irrigation, and the pollution of watersheds, which reduced the quality and amount of accessible spawning grounds and habitat for the treaty-protected fishery resources as well as the habitat needed by all fish and wildlife.

The tribes protested, but still no one listened. So it was time to go to court. For months, attorneys and managers went through the grueling task of preparing their cases, which came before Judge George Boldt, a highly conservative judge whose reputation was less than promising to the tribes. But Judge Boldt distinguished himself in this case, proving the capacity to listen to the tribes and ultimately issuing the landmark U.S. v. Washington (Boldt) Decision of 1974. The decision was one heard by state and tribal officials all across the country. It

reaffirmed treaty Indian fishing and co-management rights, and called for the tribes to receive half of the harvestable catch of salmon.

In the years following the ruling, the tribes built their structures and roads to allow for their sacred responsibilities, and they created the Northwest Indian Fisheries Commission (NWIFC) to assist them in conducting orderly and biologically sound fisheries. More recent federal court rulings upholding treaty-reserved shellfish harvest rights have further expanded the role and responsibilities of the tribes as natural resource managers. Those rulings, combined with the interconnectedness of all natural resources, mean that tribal participation is today necessary in nearly all aspects of natural resource management in the region.

In the decade following the 1974 ruling, however, the state continued to resist the recognition of treaty Indian fishing rights and instead tried and tried again to overturn the Boldt Decision. Slade Gorton, State Attorney General from 1961-1981, led the charge—unsuccessfully. The failure of these efforts did not deter the state, and the state and the tribes consistently fought each other in court until 1984.

Because the state and tribes could not seem to work together, the court took over management of the fishery resource by default. Almost every fishery management decision was made by the court, with the state and tribal biologists arguing before a federal magistrate every step of the way. It was wasteful, costly and time-consuming. It slowly became obvious that the job of managing fish must be done cooperatively, if it is to be done at all. The only alternative was to leave management in the hands of the courts...some said until the last salmon is harvested.

An Era of Cooperation

In 1984, a new idea surfaced, and an era of cooperation was established. Thanks to the able leadership of a few visionaries in state and tribal government, and, in some instances, the timber industry and environmental organizations, a new path was cleared for many collaborative efforts. Such processes as the Timber-Fish-Wildlife (Forests and Fish) Agreement and the Pacific Salmon Treaty were developed. The progress in state/tribal government-to-government relations advanced considerably when Booth Gardner served as Governor, 1985-2002. As he prepared to leave office, tribes honored

him for his progressive and forthright approach to state/tribal relations, and he told tribal officials that the most rewarding part of his administration had been the progress made in that regard. Governor Gardner's administration started in concert with the era of cooperation, and was highlighted in the state's centennial year of 1989, when he and the chairs or delegates of nearly every tribe in the state officially signed the Centennial Accord:

<http://www.goia.wa.gov/Government-to-Government/Data/CentennialAccord.htm>.

It marked the contemporary acknowledgement of tribal sovereignty by the state and provided a framework by which government-to-government relations could be conducted. Every governor since Gardner has embraced the Centennial Accord, which is highlighted by annual sessions intended to further improve state/tribal relations. Today, tribal/state litigation over fishery issues is the exception, not the rule. Most importantly, despite common opinion, most salmon runs in western Washington remain in generally stable condition, given available habitat. Habitat is truly the key factor. With human population in coastal states continuing to expand, river habitats have been under heavy pressure, clean water is becoming more of a rarity, and marine waters have been impacted by a variety of toxins as well as the horrid effects of de-oxygenation. The overall volumes of returning salmon stocks have consistently diminished, even though harvest opportunities over the past quarter century have been a fraction of what they once were.

The listing of Puget Sound Chinook, Lake Ozette sockeye and Hood Canal summer chum as "threatened" under the federal Endangered Species Act (ESA) made the management of fisheries a challenging task for tribal and non-tribal natural resource managers. Their ongoing task is to construct fisheries that allow for harvest of healthy salmon stocks, while minimizing impacts on weak salmon runs, and to operate hatcheries in a manner that protects wild salmon. The Shared Strategy for Puget Sound, one vehicle for salmon recovery in western Washington, was created in 1999 when more than 200 tribal, federal, state and local leaders met to discuss the wild salmon crisis. They identified as their common goals the return of healthy ecosystems to produce and support wild salmon at a level that will once again sustain commercial, ceremonial and subsistence harvest. Over time, there have been marked successes. For example, most watersheds submitted chapters for a regional recovery plan, and the National Marine Fisheries Service—the federal agency responsible for implementing the Endangered Species Act—endorsed the plan.

Meanwhile, many other local and regional efforts contributing to wild salmon recovery have also continued. One example is the Hatchery Reform Project, a systematic, science-driven examination of how hatcheries can help recover and conserve naturally spawning salmon populations and support sustainable fisheries. Tribal and state co-managers also developed a plan for federal legislation requiring the mass marking of all fish produced from federally-funded hatcheries. Mass marking, in which hatchery-raised fish are fin-clipped for identification, enables fishermen to selectively harvest only hatchery salmon, while releasing unmarked wild salmon.

The Challenges Ahead

Disputes continue over water. At the center of these disputes is the need to retain water for fish and wildlife (instream) and the growing demand for water to supply rapidly expanding human populations (out-of-stream). This issue is exacerbated by changes in land use and shifting climate patterns. Tribes are evaluating, planning for and working to maintain adequate water supplies for their fish and homelands. Some tribes joined environmental organizations in suing the state over HB 1338, the state's 2003 municipal water bill, which seeks to provide water for expanding populations, to the detriment of fish and wildlife. For more than three decades, the western Washington Tribes have pursued a number of administrative, cooperative, voluntary and inter-governmental approaches to define and establish the instream flows necessary to protect and restore salmon resources. That quest continues.

When Christine Gregoire was elected governor in 2004, the progressive status of state/tribal relations was acknowledged in many ways. One was her appointment of Northwest Indian Fisheries Commission Chairman Billy Frank, Jr. to co-chair the effort to establish a new Puget Sound Partnership. Other co-chairs included former director of the United States Environmental Protection Agency William Ruckelshaus and State Department of Ecology Director Jay Manning. In the 2007 session of the state legislature, the effort resulted in a new state agency, dedicated to the clean up of Puget Sound by the year 2020. Under Governor Gregoire's leadership, progress was also made in the effort to protect the ocean environment through the Ocean Policy Work Group, a government-to-government agreement with ocean tribes and a Washington-Oregon-California pact to

coordinate the response to global warming. (For more information about the Puget Sound Partnership, see www.psp.wa.gov).

Such efforts, while not perfect, do send promising signals that the state/tribal relationship can continue to improve, although issues such as the ongoing contention over water resources, combined with ongoing population expansion and the ominous status of global warming, could sidetrack such progress. Clearly it will be critical to stay focused on state/tribal team spirit so the benefits of cooperative efforts can continue to be realized.