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U. S. DISTRICT COURT
DISTRICT OF OREGON
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FEB 28 1977

ROBERT M. CHRIST, Clerk
By *[Signature]* DEPUTY

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

10 UNITED STATES OF AMERICA,)
11 Plaintiffs,)
12 vs.)
13 STATE OF OREGON,)
14 Defendant,)
15 and)
16 THE CONFEDERATED TRIBES OF THE)
17 WARM SPRINGS RESERVATION OF)
18 OREGON; CONFEDERATED TRIBES &)
19 BANDS OF THE YAKIMA INDIAN)
THE UMATILLA INDIAN RESERVATION;)
and NEZ PERCE TRIBE OF IDAHO,)
20 Intervenor,)
21 and)
22 STATE OF WASHINGTON,)
23 Intervenor.)

CIVIL NO. 68-513
MOTION

24 All parties hereby move this Court for an Order approving the
25 Plan for Managing Fisheries on Stocks Originating from the Columbia
26 River and its Tributaries Above Bonneville Dam, which is attached

555 State Office Building
Portland, Oregon 97201
Telephone 229-5725

1 hereto as Exhibit "A."

2 DATED February 28, 1977.

3 Respectfully submitted,

4
5 Beverly B. Hall
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7 Assistant Attorney General
8 Attorney for Oregon Fish
9 and Wildlife Department

10 Dennis Karnopp
11 Dennis Karnopp
12 Attorney for Warm Springs
13 Tribe

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34 United States Attorney
35 Of Attorneys for the United
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37 Douglas R. Nash
38 Douglas R. Nash
39 Attorney for Umatilla Tribe

40
41 IT IS SO ORDERED.

42
43 Robert Bellini
44 UNITED STATES DISTRICT JUDGE

Portland, Oregon 97201
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Retyped for informational purposes only.

A PLAN FOR MANAGING FISHERIES
ON STOCKS ORIGINATING FROM THE COLUMBIA RIVER AND
ITS TRIBUTARIES ABOVE BONNEVILLE DAM

The purpose of the plan shall be to maintain, perpetuate and enhance anadromous fish and other fish stocks originating in the Columbia River and tributaries above Bonneville Dam for the benefit of present and future generations, and to insure that the Nez Perce Tribe of Idaho, Confederated Tribes of the Umatilla Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakima Indian Nation, hereinafter called Tribes, having the right to fish based on a treaty with the United States are accorded the opportunity for their fair share of harvest, and to provide for a fair share of the harvest by nontreaty user groups.

This plan is based upon the unique circumstances relating to the Columbia River system and the parties hereto and does not necessarily have application in other fisheries.

The parties also recognize the substantial management problems resulting from the ocean harvest of mixed stocks of anadromous fish originating from the upper Columbia River and its tributaries and the wastage resulting from fishing on immature stocks. The parties will continue joint efforts to collect and gather data on this fishery and to reduce inefficient and wasteful harvest methods.

Due to environmental factors totally unrelated to the treaty or nontreaty fisheries, there has been a continual decline of some runs of anadromous fish in the Columbia River system. This trend could deprive not only the treaty Indians, but also other user groups of the opportunity to harvest anadromous fish. The parties pledge to work cooperatively to maintain the present production of each run, rehabilitate runs to their maximum potential and to work towards the enhancement and development of larger and additional runs where biologically and economically feasible.

(1) The managing fishery agencies shall make every effort to allocate the available harvest as prescribed in this agreement on an annual basis. However, because run size cannot always be accurately calculated until some lower fishery has taken place, annual adjustment of the sharing formulas for each species may be required to provide the appropriate shares between treaty and nontreaty users. If treaty and nontreaty users are not provided the opportunity to harvest their fair share of any given run as provided for in this plan, every effort shall be made to make up such deficiencies during the next succeeding run of the same race. Overall adjustments shall be made within a 5-year time frame.

(2) The treaty Indian tribes and state and federal agencies shall diligently pursue and promote through cooperative efforts the upriver maintenance and enhancement of fish

habitat and hatchery rearing programs, and so far as practicable, maintain present production of each run and to rehabilitate runs to their maximum potential.

(3) Hatchery salmon and steelhead released to maintain or restore runs above Bonneville Dam shall be shared pursuant to this plan.

(4) A technical advisory committee shall be established to develop and analyze data pertinent to this agreement, including but not limited to the following: calculated run size for all species of fish, ocean catches, escapement goals, catch allocation and adjustments, dam loss, habitat restoration, and hatchery rearing programs. Such a committee shall make recommendations to the managing fishery agencies to assure that the allocations in this agreement are realized. Members shall be qualified fishery scientists familiar with technical management problems on the Columbia River. The committee shall be comprised of representatives named by each of the three states, Oregon, Washington, Idaho, National Marine Fisheries Service, U.S. Fish and Wildlife Service and each of the Indian Tribes.

(5) Each party shall develop a catch record program that utilizes reliable statistical methods and effective enforcement procedures as developed by the committee. Indian tribes shall report on appropriate state forms for each species ceremonial, subsistence and any other catch not sold to state-licensed buyers. The states shall report and

make available to all interested parties treaty and nontreaty sport and commercial catch for each species. All the above reports shall be made within an agreed-upon time schedule.

(6) The states agree to enact or recommend for enactment by the Pacific Fisheries Management Council appropriate conservation regulations for the ocean fishery that will assure an efficient utilization of stocks and will provide for adequate escapement of mature fish into the Columbia River to achieve the goals and purposes of this plan. Marine regulations should attempt to harvest mature fish and reduce waste.

(7) Fish escapement totals, dam loss estimates, or other technical aspects of this agreement may be modified by mutual agreement to reflect current data. In the event that significant management problems arise from this agreement that cannot be resolved by mutual agreement, the parties agree to submit the issues to federal court for determination. In any event, the Court shall retain jurisdiction over the case of U.S. v. Oregon, Civil 68-513, (D.C. Or).

(8) The sharing formulas as set forth in this plan are based upon the premise that the marine area catches in U.S. controlled waters of fish originating above Bonneville Dam, other than fall chinook and coho runs, will be regulated by PFMC so as to be essentially de minimis portions of those runs. The parties acknowledge that if subsequent data should indicate that this premise is incorrect, these formulas may require revision.

(9) Regulations affecting treaty users which are enacted in conformity with this comprehensive plan shall be considered as complying with the court's decrees enunciated in U.S. v. Oregon, Civil No. 68-513, District of Oregon.

(10) Tribal members fishing pursuant to this agreement may employ only members of the Tribes, while exercising their treaty fishing rights.

(11) All fish numbers referred to in this agreement are adult fish.

(12) The sharing formulas contained herein for determining the treaty fishery share refer to those fish caught in the Columbia River below McNary Dam and any other inland off-reservation catch placed in commercial channels.

Except as provided in subparagraph 5 under Spring Chinook, neither treaty nor nontreaty non-commercial harvest in tributaries, or in the mainstem Columbia River above McNary Dam, shall be considered in the sharing formulas contained herein.

(13) Upon thirty days written notice by any party, after five years from date, this comprehensive plan may be withdrawn or may be renegotiated to assure that the terms set forth represent current facts, court decisions, and laws.

A fish management plan has been adopted for those species of importance to assure future conservation of the resource and equitable sharing of the harvest between treaty Indians and nontreaty users. The formulas represent Available Fish for Harvest and may not reflect total catch if fishing effort is inadequate to harvest all available fish. All runs of fish described in this plan are those originating in the area of the Columbia River or its tributaries above Bonneville Dam.

Fall Chinook Salmon

The Columbia River fall chinook shall be managed under the following plan:

(1) Run size shall be determined by the number of fish entering the Columbia River which are destined to pass Bonneville Dam.

(2) Escapement of 100,000 fish above Bonneville Dam shall be subtracted from total in-river run size.

(3) Additional fish above escapement are available for harvest and shall be shared 60% by treaty fishermen and 40% by nontreaty fishermen.

(4) The states' goal is to manage the fisheries to provide and maintain a minimum average harvestable run size of 200,000 upriver fall chinook to the Columbia River.

(5) The 60% treaty share shall include mainstem ceremonial, subsistence, and commercial harvest as allocated by the Indian tribes. The 40% nontreaty share shall include in-river commercial and sport harvest as allocated by the appropriate agencies.

Spring Chinook

The Columbia River spring chinook shall be managed under the following plan:

(1) Run size shall be determined by the number of fish entering the Columbia River destined to pass Bonneville Dam.

(2) Spawning escapement goals shall be a minimum of 120,000 and 30,000 fish above Bonneville and Lower Granite Dams respectively.

(3) The states' goal is to manage the fisheries to provide and maintain a minimum average run size of 250,000 upriver spring chinook to the Columbia River.

(4) Treaty ceremonial and subsistence catch shall have first priority. These fisheries shall not exceed a catch of 2,000 fish on a run size of less than 100,000 fish; 5,000 on

a run size of between 100,000 and 120,000 fish; and 7,500 fish on a run size of between 120,000 fish and 150,000 fish. Treaty ceremonial and subsistence fishing for spring chinook with gillnets as well as other normal gear may occur, but such gillnet fishing shall be subject to a notification system similar to that presently used for ceremonial fishing. All catches shall be monitored cooperatively for the purpose of ascertaining the amount of the catch.

(5) On a run size of between 120,000 and 150,000 fish passing Bonneville Dam, the nontreaty fisheries are limited to the Snake River system and may harvest fish which are in excess of the 30,000 spawning escapement passing Lower Granite Dam. (Under average river flow conditions, 120,000 fish at Bonneville Dam will generally provide 30,000 fish at Lower Granite Dam and 150,000 fish at Lower Granite Dam.)

(6) On a run size of more than 150,000 fish passing Bonneville Dam, all allocations as provided for in items 4 and 5 shall occur. All additional fish available for harvest below McNary Dam shall be shared 40 percent for treaty fishermen and 60 percent for nontreaty fishermen. If river passage conditions improve so as to provide more than 40,000 fish at Lower Granite Dam on run sizes of 150,000 fish or less, the 40 percent and 60 percent allocation may occur on a run size of less than 150,000 fish at Bonneville Dam.

Summer Chinook Salmon

Summer chinook salmon runs are precariously low and do not warrant any fishery at the present time, with the exception of a treaty subsistence, ceremonial, and incidental catch not to exceed 2,000 fish during the months of June and July.

The parties agree that if the run size increases a formula for sharing of the available harvest above present escapement goals for this race shall be similar to spring chinook.

Summer Steelhead

(1) Run size shall be determined by the number of fish entering the Columbia River destined to pass Bonneville Dam.

(2) The escapement goal to spawning grounds above Lower Granite Dam shall be a minimum of 30,000 fish. A run size of 150,000 fish at Bonneville Dam will provide for 30,000 fish at Lower Granite Dam.

(3) The treaty Indian mainstem fishery shall be limited to ceremonial, subsistence and incidental catch to other commercial fisheries. A minimum mesh restriction of 8 inches will be utilized to limit incidental catch.

(4) The Indian tribes recognize the importance of the steelhead stocks to recreational users and agree to forgo a target commercial fishery.

Sockeye Salmon

Sockeye salmon runs are precariously low and do not warrant any fishery at the present time, with the exception of a treaty subsistence, ceremonial, and incidental catch not to exceed 2,000 fish.

The parties agree that if the run size increases so as to provide harvestable quantities, such harvest shall be shared equally between treaty and nontreaty fishermen.

The parties recognize the importance of protecting summer chinook and summer steelhead stocks during the harvest of sockeye salmon. Incidental catch of summer chinook and steelhead shall be minimized by providing appropriate restrictions to the sockeye fishery.

Coho Salmon

Coho stock are in the treaty fishing area simultaneously with other species which currently need protection from fishing effort. Parties agree to use their best efforts to develop methods to maximize coho harvest while protecting those other species.

Shad

Shad runs have been sufficiently large to allow for unlimited harvest. However, because shad fisheries can take stocks of

salmon and steelhead that are below harvestable levels, new catch methods shall be pursued particularly by the Indians above Bonneville Dam to assure a sufficient catch of shad while minimizing the catch of other species. If escapement goals and catch formula must be established in the future, the committee shall compile the required data and make recommendations to the managing fisheries agencies.

Sturgeon

The population of sturgeon in the Columbia River appears residual above Bonneville Dam. The parties agree that the Indian tribes shall have a commercial fishery regulated by sound principles of conservation and wise use. A sport harvest may occur simultaneously for sturgeon above Bonneville Dam.

Winter Season

The treaty fishermen shall be allowed a mainstem commercial fishery for any species of fish between February 1, and April 1.

This comprehensive plan for managing anadromous fisheries on stocks originating from the Columbia River and its tributaries above Bonneville Dam is adopted by the undersigned this 25th day of February, 1977.

ROBERT W. STRAUB
Governor of Oregon

DIXY LEE RAY
Governor of Washington -

CONFEDERATED TRIBES OF THE WARM
SPRINGS RESERVATION OF OREGON

CONFEDERATED TRIBES & BANDS OF THE
YAKIMA INDIAN NATION

UNITED STATES OF AMERICA

BY

JOHN HOUGH
Special Assistant to the
Secretary of Interior

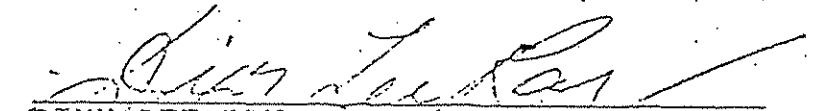
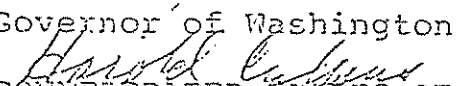
CONFEDERATED TRIBES OF THE UMATILLA
INDIAN RESERVATION

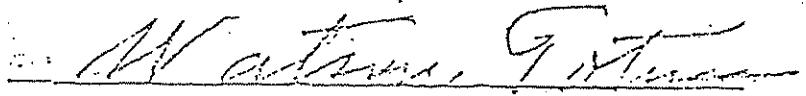
RICHARD A. HALFMOON, CHAIRMAN
NEZ PERCE TRIBE OF IDAHO

ALTA A. GUZMAN, SECRETARY
NEZ PERCE TRIBE OF IDAHO

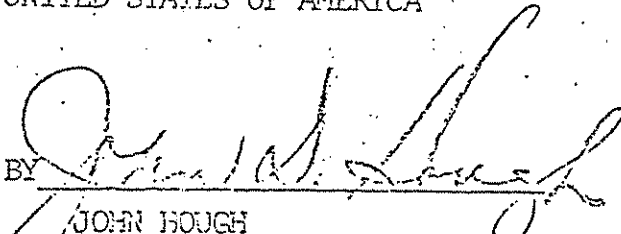
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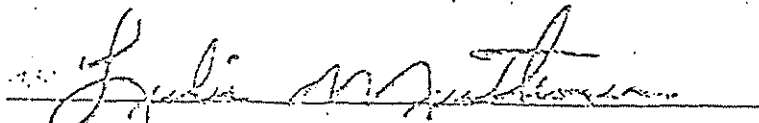

ROBERT W. STRAUB
Governor of Oregon

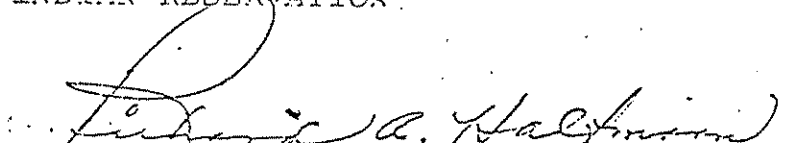

DIXIE LEE RAY
Governor of Washington

CONFEDERATED TRIBES OF THE WARM
SPRINGS RESERVATION OF OREGON



CONFEDERATED TRIBES & BANDS OF THE
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UNITED STATES OF AMERICA

BY 
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Special Assistant to the
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