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"It Was a Spearhead of Change": The Fish-Ins of the Pacific Northwest and the Boldt Decision

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On January 11, 1974, Judge George Boldt handed down a decision on Pacific Northwest Indian treaty fishing rights that would become one of the most dramatic, highly contested, and significant court rulings in Pacific Northwest history. The Boldt decision in *US v. Washington* was the outcome of decades of struggles on the part of Puget Sound Indian nations to protect and preserve their right to fish.[i] As three years of testimony and investigation unfolded in Judge Boldt's court room, the significance of fish, both economically and culturally to Northwest Indian people's identity was revealed. There were numerous diverse people, from different tribes and different states, who played a role in seeing the case brought to court and to completion. But they all shared the same goal: to win federal recognition and protection of treaty rights and to use that acknowledgement to reinvigorate fishing as a key element of their economies and identities.[ii]

Before the Boldt trial even came to court, the Pacific Northwest had been ground zero to a series of well-planned protests, which gained the collective name of "fish-ins." These protests were a means of proving the fishing rights of the treaty signing tribes of the Pacific Northwest, as well as illustrating the cultural and economic necessity of fish to the indigenous people of the region. Did the fish-in protests have an impact on the tribes and the federal government's decision to file the case against Washington State? Or do the fish-ins and the trial represent polarities in the struggle to protect treaty rights?[iii] While Judge Boldt publicly derided the protesters for their lawlessness, it was those same protesters who purposely and inadvertently prompted their tribal councils to

file the case.[iv] The Boldt case became the legal extension of the fish-ins and a public forum; a vehicle for the definition of a Native American identity.[v]

The Boldt case is certainly not the first time Native American tribes have utilized the judicial system to protect legal and traditional rights.[vi] But, this case was unique in its scope and in the factors which came together to produce it. The fish-ins and the Boldt trial represented the Salish people's entanglement with, and subversion of, the law. Native Americans of the Pacific Northwest utilized the tools of both the colonizer and indigenous traditions to protect a spiritual and economic right, one that seemed to maintain its importance in the modern world, though with shifting definitions and focus. There was no contradiction in the struggle to achieve both economic viability and revitalize cultural identities; they became part and parcel of the same struggle, both in the protests and the courtroom. The fish-ins and subsequent Boldt trial were part of a decade in which Native Americans across the United States were engaged in, what was seen by outsiders ie-state courts, the Federal Government and competitors for the resource, as the contradictory goal of achieving economic viability and revitalizing their cultural identity.[vii]

Social movements, like the fish-ins find success when protests lead to legal and political processes. The contexts and outcomes of social movements are multiple and overlapping and include the size of the affected population, their economic standing, legal arguments, media coverage and public opinion.[viii] Methods include protest, lobbying, press releases and court cases. The fish-ins, while representing a small economically disadvantaged portion of the population gained public support via media

coverage, represented longstanding cultural practices, and held significant legal backing in treaties.

Protest itself can gain the attention of the press, the public, and the government to the serious intentions of the protesters. These movements provoke reactions that render power visible and make it negotiable in legal ways. Protests disrupt the workings of the institutions in which they are immersed and thus propel them into the public consciousness.[ix] The fish-ins were part of a wave of social movements in the 1960s and 70s for civil rights, against war, for women's rights, and on the part of indigenous people across North and South America and into the Pacific Ocean, for land rights. But most importantly, the fish-in protests were about cultural revitalization. Sociological value expectancy theory assumes that those joining movements view their participation as containing some kind of moral or ethical worth and that they will receive something of value, be it the meeting of their demands or personal acceptance and approval from those they work with.[x] Those who joined the fish-ins demonstrated the values of their culture, expressing collective representations which solidified social solidarity. Protest occurs within a dense network of social interaction and action but must be grounded in cultural knowledge to make sense. These were not protests of a minority battling for legal and civil equality in the eyes of the law, though most social movement participants "hold values, attitudes, beliefs and ideological orientations that are often quite distinct from the broader culture."[xi] These protests were to preserve and promote sovereignty, which had been inherent as well as legally sanctified in treaties signed in the 1850s.

It was more than just the protection of treaty rights and the fishing industry that were at stake during the years of the Boldt trial. During the Boldt trial, witnesses were

constantly being asked to prove their "Indianess" or indigenousness by explaining their use of traditional methods to fish. Discussions of Native American identity raise issues such as authenticity and exclusivity. The trope of the natural Indian, tied to his environment through necessity and spirit belies the economic importance of production via the environment throughout Native American history as well as the human imperative for change, adaptation and development.[xii] Throughout the late 19th and the 20th century, as cultural practices were repressed by the church and the state, and speaking native languages was crushed at boarding schools, the right to fish became even more important as a means to retain culture and to express sovereignty.[xiii] It became a "solid point of identification."[xiv] Not only did the fish-ins reaffirm an older American Indian identity based around fish, but they also created a new identity of urban activists who utilized direct confrontation through the courts and the media to promote Native American rights on a national scale. As Randy Lewis, activist and participant of the fish-ins said, "…it was a spearhead…it created a growing consciousness."[xv] Fish and their relationship to the people have therefore undergone significant changes in the scheme of Pacific Northwest Indian identity. At the same time, they have also retained a role of great significance.

The lands of the Pacific Northwest are quite fertile and the broad subsistence base of the region contributed to the stability of Native American economies.[xvi] While land was an important cultural aspect of Pacific Northwest nations, the relationship to water, and to the comparable wealth a family could derive from it, was generally considered more important. The land and waterways were not owned outright. Instead, specific families controlled rights to land and the access to fishing and hunting grounds. The

family management of land and access helped to limit the strain on the fishing resource. Spiritual practices, like the first salmon ceremony, were other methods for managing the resource for prime output.[xvii] According to Pierson Mitchell of the Columbia Intertribal Fishing Commission, "Salmon were put here by the Creator, and it is our responsibility to harvest and protect the salmon so that the cycle of life continues."[xviii] These families who managed the fishing resource and maintained the far flung kin networks that determined who fished where and when. Relationships between individuals (trade or marriage) and ritual shared across villages helped large numbers of people across broad geographic ranges promote increased productivity.[xix]

In the 1840s, as Anglo settlers arrived in greater numbers in Washington Territory, American Indian communities worked to incorporate them into their kinship and economic networks. As long as the new settlers contributed, did not dramatically disrupt the balance of man and resource, and were respectful, they were welcomed. However, most settlers wanted no part of this network, and called on their government to manage the situation and isolate the Indians.[xx] In 1853 Isaac Stevens arrived as the governor of Washington territory. His duties included establishing formal ties with Native American nations in the region. Governor Stevens negotiated, or strong-armed, his first treaty at Medicine Creek in December of 1854. There, the Nisqually, Squaxin, and Puyallup all saw their lands reduced to individual reservations. Two years later, the Muckleshoot, known at the treaty council as the Buklshul, were acknowledged as having rights to a reservation through the treaty and were "granted" their own land.[xxi] The Puyallup, Muckleshoot, and Nisqually would later occupy central roles in the fishing rights struggle, in part due to their locations near spawning grounds of salmon and near

larger cities. Stevens then moved on to Point Elliott and there enacted treaties with the Duwamish, Lummi, Skagit, Snohomishes, Suquamishes, Snoqualmies, and numerous other groups listed as signers to the treaty in January 1855. Stevens contracted twelve treaties with Indian nations of the Pacific Northwest within one year.[xxii]

One of the most important similarities in the treaty negotiations was that the Native American leaders insisted on preserving their fishing rights. While Western territorial definitions and delineations of the landscape were forced upon the tribal members present at the negotiations, promises of protection to access of resources, like fish, that supported lifestyles, were secured. In the treaty negotiations at Point no Point, the Washington territorial representative, hoping to express what a key element the fishing rights article was to the treaty, told the assembled Indian nations that, "This paper secures your fish."[xxiii] These rights of access were not just to protect the control of the resource, but were also to protect the resource itself as tribes had managed the fisheries to their prime output for years.[xxiv] The actual phrase included in various articles to the treaties was, "The 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."[xxv]

The economy of Washington was growing dramatically in the 19th and 20th centuries. By 1910 fishing had become the third largest industry in Washington State.[xxvi] Of the new technologies fueling this growth and creating a greater national demand for Northwest fish, canning was certainly the most important. The new fish packing and canning industry of the 1870s created a great demand for salmon and new pressures on the resource.[xxvii] Initially the canning industry was a boon to local Indians. The plants provided them a place to sell what they caught and to make some extra money working

the lines.[xxviii] The camps of seasonal laborers who came to work at the canning factories also became a focus of Indian social life, crossing boundaries of land, language and culture, and creating a unified identity though work relating to fish.[xxix] In order to net a broader share of the industry for the growing commercial interests, the State of Washington soon began passing laws that excluded Indians from the fisheries. The first law pertaining to fishing was passed in 1891 and required any person fishing in the state to be a citizen or to have the intent to become one.[xxx] The law failed to mention Indians or the fact that Indian fishing did not fall under state regulatory jurisdiction, but was to be regulated by tribes or the Bureau of Indian Affairs. State agents quickly began arresting Indians for fishing without proof of citizenship.[xxxi] In part, these attacks on Native American fishing were an attempt to further remove Native Americans from traditional practices and move them further into American culture and the wage labor market. Indigenous methods of fishing went against the assimilationist grain. Anglos claimed shrinking tribes would no doubt be unable to keep up with the expanding Washington economy and as occurred with numerous tribes, modernizing to keep up with the economy was viewed as cultural extinction and thus grounds for the removal of protected treaty rights.[xxxii]

Indians countered the arrests by appealing convictions, as well as taking their own cases to district and appeals courts. As early as 1887, the Yakimas took Frank Taylor to territorial court for having obstructed their route to fishing grounds. In *United States v. Taylor*, the appeals court judge ordered Taylor to remove his fence and allow the Yakimas access to their usual and accustomed grounds.[xxxiii] In 1905 the Yakimas again won a district court victory for the preservation of their treaty fishing rights with *United*

States v. Winans. In this decision, the United States Circuit Court ruled that the Winans family could not restrict local Indians from fishing on or near their lands.[xxxiv] The victories in these cases illustrated not only the supremacy of treaties and federal constitutional law to state law; they also illustrated the growing Indian awareness of their own political powers and legal rights. Pacific Northwest Indian nations had not signed the treaties with the United States with the intention to give up their rights and identities, but with the intention to protect and preserve their rights and identities under the new laws of the land.

By the turn of the 20th century, the new technologies and demand for fish had begun to reduce the once abundant fishing resource in the Pacific Northwest.[xxxv] Over fishing was not the only problem for the fish of Washington State. The growing population created growing pollution of rivers and streams.[xxxvi] The forestry industry became another growing pressure on the environment and thus the fish population.[xxxvii] As the cities of Seattle, Tacoma, and Spokane expanded during World War II, the demand for power for both industry and the population increased. Dams, built since the Depression of the 1930s, began to spring up more and more all across the state.[xxxviii] The impact of dams on the ability of salmon to spawn was catastrophic. The dams also often wiped out traditional fishing grounds by rerouting water ways.[xxxix]

In the 1920s and 30s, as the need for conservation and regulation in the fishing industry became more apparent, the Washington State Departments of Fisheries and Game were born. The Departments became the enforcement and regulation arms of the Washington State Legislature.[xl] Various initiatives and laws were instated in order to maintain an ecological balance, but with little lasting success. There was a daily two fish

limit for sports fishermen, but a commercial license with no daily limit could be bought for only $15.[xli] It wasn't until 1974 that the Department of Fisheries actually began limiting the seasons and times commercial fishermen could catch salmon. However, the Department of Fisheries still had no regulations in place to monitor how many individuals and corporations were actually catching salmon on the rivers and in the ocean.[xlii] There was also no regulation on the number of sports fishing licenses being granted. In Washington, between 1958 and 1967, Native Americans took 6.5% of total fish caught, sports fishermen took 12.2%, and commercial operations took most of what was left.[xliii] Washington gained no income from Indian fishing, since no tax dollars or license fees came from Indian fishermen. By eradicating Indian fishing rights, Washington could actually free up more room for commercial and sports fishing, and thus increase the income for the state.[xliv]

The state of Washington applied pressure to Indian fishermen by attacking their treaty and tribal status. For example, throughout the 1960s, Washington Fish and Game wardens arrested Muckleshoot fishermen for fishing without treaty fishing rights. However, the Bureau of Indian Affairs had been issuing off-reservation fishing licenses for Muckleshoot Indians for years and proclaimed that there was ample evidence that the Muckleshoot tribe had been party to the Treaty of Medicine Creek. In 1962 the state raided the fishing camp at Frank's Landing, arresting numerous Nisqually Indians and their friends for illegal netting of fish. The state claimed Frank's Landing was not part of the Nisqually Reservation due to the fact that Frank's Landing had been purchased during World War I in compensation for Nisqually Reservation lands condemned to build Fort Lewis.[xlv] In 1963 the departments sought and won state court injunctions outlawing

Indian fishing on the Puyallup and Nisqually Rivers, claiming the Puyallup had sold all their allotted land, and thus had lost their treaty rights.[xlvi]

In response to this pressure on fishing rights and identity in the 1960s, the fish-in was born. As the term would imply, the fish-ins borrowed a key element of their tactics from the civil rights protests occurring in the South during the same years. Like the sit-ins utilized by African Americans, the fish-in combined group civil disobedience with non-violent tactics in a clever endeavor to gain the attention of the media.[xlvii] Groups of Indian fishermen from all across the state would gather at locations where Indians had previously been arrested for fishing without licenses, and which they considered usual and accustomed places, and there they would fish until they too were arrested. Identity is forged through interaction, the dialogue of action and reaction. Each counter move against protesters, each rebuttal in the court room embedded the expanding and multiple identity as fishermen and women into Pacific Northwest Native American consciousness.

Individuals organized various protests and slowly built a cohesive movement. An early fish-in activist was Bob Satiacum, a Puyallup and Yakima tribal member. He was a commercially successful fisherman who utilized his economic worth to take his conviction for fishing for steelhead out of season to the Washington Superior Court in 1957.[xlviii] He also organized supporters to fish with him on the Puyallup River in the 1960s.[xlix] There was Janet McCloud, a Tulalip tribal member, who helped found the Survival of the American Indians Association in 1964, editing and distributing a newsletter that told the Indian side of the fish-ins story garnering key media coverage and support. Another active organizer of the fish-ins was Hank Adams, an Assiniboine Sioux, who spent a good part of his youth on the Quinault reservation.[l] Adams' work

managed to bring together disparate protests into a cohesive whole, coordinating students and technical issues, as well as planning events. He represented the Washington State project of the National Indian Youth Council. In 1964 Adams took on his first action in support of the fish-ins, organizing a demonstration at the State capital in Olympia. In a stunning show of support, 2,000-5,000 protesters showed up, as well as Charles Kuralt from the CBS show.[li] The March 3rd protest was the largest inter-tribal demonstration ever held. Hank Adams recalled the power and support he felt from fellow Native Americans from across the continent saying, "It was a major source of encouragement."[lii]

The National Indian Youth Council, founded in 1961, supported the tribes of the Pacific Northwest during the fish-ins with leadership, organization, and financial help. Though their initial stance on protest was generally ambivalent, eventually they hoped to do something "dynamic and different" and show they "had the guts to take direct action."[liii] With the help of the NIYC, fish-in organizers became incredibly savvy at gaining public attention and invited various celebrities to join them in their protests. The arrival of actor Marlon Brando, singer Buffy Saint-Marie, and comedian Dick Gregory caused the American public to take a sudden interest in the affairs and rights of Pacific Northwest Indians through the heavy press coverage.[liv] The NIYC also worked to promote conservation measures and provided planning support to Pacific Northwest tribes to re-stock fish.

The support of groups like the Survival of American Indians and the National Indian Youth Council gave individuals like Billy Frank Jr., who had been battling for his fishing rights on the Nisqually River for years before the fish-ins, a growing base of support and friends to fish and protest with. By the late 1960s, Frank's home at the

Landing became the base for SAI operations and ground zero for many of the fish-ins. His sister Maiselle Bridges organized protests and wrote press releases. Maiselle's daughters Alison, Suzette, and Valerie became well known speakers and leaders in the fishing rights struggle. Fish caught at Frank's Landing became bail money for fishermen and women who were arrested there. The SAI and NIYC helped to found the Indian Fisheries Co-op which smoked and sold salmon caught during the fish-ins. The use of fishing funds to support the multi-national protesters helped reinforce the central notion of fish to a broader Northwest Indian identity. At Frank's Landing, fish represented food, commerce, unity, and the significance of the treaties.

The Departments of Fish and Game responded swiftly to the growing public support of the fish-ins, issuing press releases accusing the entire population of Indians of illegal fishing, as well as over-fishing and almost single-handedly wiping out the resource.[lv] Walter Neubrecht, Chief Enforcement Officer for the Department of Game, stated in a 1971 interview that, "Our enemy isn't the kids and squaws anymore. It's everything from…hippies to black militants, but mainly it's these renegade Indians…they want to put on a show to get attention and sympathy."[lvi] While the Departments of Fish and Game issued press releases condemning the fish-ins, local area police began stepping up arrests of Indian fishermen. Initially police simply gave warnings; they soon began confiscating or destroying fishing gear. As early as 1965, Billy Frank Jr. recalled paramilitary style arrests and raids on Frank's Landing which almost ended with both he and his fishing partner Al Bridges being killed.[lvii] The opposition to fishing rights in the Pacific Northwest became more and more violent as the struggle continued through the 60s and 70s.[lviii] On September 9, 1970, police raided an Indian fishing camp on the

Puyallup River with tear gas and clubs. Almost 60 people from various Indian nations were arrested for fishing without permits and for resisting police.[lix] In 1971 Hank Adams was shot by white vigilantes near Tacoma, an attack he was able to recover from.[lx] Fearing both the police and renegade fishermen, Maiselle Bridges, stated, "We are armed and prepared to defend our rights with our lives."[lxi] Sidney Mills asked the question, "Why must our Indian people fight…Why can't an Al Bridges or Lewis Squally fish on the Nisqually without placing their lives and property in jeopardy?"[lxii]

As the violence grew, the public became drawn further into the struggle through the media coverage, and new allies appeared to work with the various Indian nations of the Pacific Northwest. In 1965 the American Friends Service Committee, who would go on to prepare the widely read *Uncommon Controversy: Fishing Rights of the Muckleshoot, Puyallup and Nisqually Indians*, began sending observers to protests. That same year, newspaper reporter Robert Johnson flew to Washington D.C. to lodge complaints with the Bureau of Indian Affairs about the treatment of Indian fishermen by local police and wardens. The Native American Rights Fund began working with the Puyallup Tribe in 1966 in order to bring test cases forward. Also in 1966, the American Civil Liberties Union defended several Muckleshoot fishermen in court and began working with other tribes on fishing rights.[lxiii] By the early 1970s, most tribal leadership, including Puyallup, Nisqually and Muckleshoot had ended attempts to reconcile relations with the state and publicly supported protesters by supplying guards at fishing sites.[lxiv]

The outcomes of social movements are not based on one single casual mechanism though but many interactions including the combination of cultural characteristics and political environment and the legal thunder clouds began gathering for what would

become known as “the lightning Boldt” in 1968 with the case of *Sohappy v. Smith*. Two Yakima fishermen, David and Richard Sohappy, had been arrested for utilizing outlawed fishing gear (gillnets) on the Columbia River. Their arrests triggered the National Office for the Rights of the Indigent to file a case against the Oregon Fish and Game Commissions. The case was filed in the United States District Court in Portland, where it was taken on by the Federal government and consolidated with *United States v. the State of Oregon*. It was hoped that *Sohappy v. Smith* and *United States v. the State of Oregon* would define and protect off-reservation fishing rights for the Yakima, Umatilla, and Nez Perce.[lxv] The case was quickly decided by Judge Belloni in favor of the tribes.[lxvi] Belloni decreed that the treaties signed with Indian nations of the Pacific Northwest were valid, that the tribes had the rights to allocate their own share of fish, and that they had the right to regulate their own fishermen with no state intervention. He also ruled that the state needed to ensure that Indian nations received their “fair share” of the fishing resource.[lxvii]

On February 28, 1971, the SAIA requested that the U.S. Attorney General file suit against the state of Washington for treaty violations. Whereas Belloni’s decision had decreed that Indian nations should receive their fair share of the fishing resource, a decision was still needed to clarify what that fair share was. Treaty tribes and the United States filed suit in order to win a decision that would give Indian nations the same control over on and off-reservation fishing. They also filed suit in order to win financial claims for relief from pollutants in the water and relief from environmental degradation.[lxviii] The case would be funded by the federal government, including the pay for research and testimony from historians, biologists, and anthropologists.

The tribes' attorneys included many whom had worked closely with defendants in fishing arrests. Al Ziontz of the firm Ziontz, Pirtle, and Fulle had been engaged as legal counsel by the Makah and Bruce Wilkie since 1963, and his firm also represented the Lummi tribe. In the early 1960s, the Makah tribal council approached Ziontz about their plan of "public awareness," which included drawing attention to the fish-in via the press, and thus leading the tribes closer to court. [lxix] Ziontz worked closely with both the Makah and Lummi tribal members, helping achieve bail for arrested fishermen and developing the case to present in *US v. Washington.* He also worked with the ACLU which assisted with research and defense for the tribes. George Dysart, the Assistant Regional Solicitor of the Department of the Interior, stood out for his admirable work and continued support of fishing tribes before and after the Boldt case was decided.[lxx] Back in 1967 Dysart asked the Justice Department to bring lawsuits against both Oregon and Washington State in order to adjudicate treaty rights.

What became known as the Boldt case was initially brought against the State by thirteen Western Washington tribes, but the federal government soon intervened on their behalf to argue the case.[lxxi] The defendants were also increased from the State of Washington to the State Department of Fisheries, the Game Commission, and the Washington Reef Net Owners Association, a commercial fishermen's group. The tribes were nervous when the case was assigned to Judge Boldt, a well-respected judge who was known as a tough "law and order judge" as well as a conservative.[lxxii] In March 1964 Boldt had refused the writs of habeas corpus filed by arrested fishermen and had them incarcerated for 30 days. But the tribes and their attorneys hoped that their painstaking research would sway the case.

In the pretrial brief, Attorney Stan Pitkin, who himself had witnessed the states crackdown on treaty fishing rights, outlined the position of the United States, stating,

> Each tribe's right is a special, reserved right, it is unlike the privilege of non-Indians to fish under State law. It is federally protected under the supreme law of the land; and it must, therefore, be given treatment by the State independent of State regulation of fishing by non-Indians…Treaty fishing rights may not be qualified by any State action; for they do not derive from, or depend upon, State authority or power.[lxxiii]

Throughout the trial, tribal members were called on time and time again to define what it meant to be "Indian." For the prosecution, these questions were a means to illustrate the enduring legacy of Native American identity, and thus a right to lay claim to treaty provisions.[lxxiv] The right to fish at usual and accustomed places was not all that was at issue for those that testified. For the defense, these questions were an attempt to prove the lack of a connection between modern day American Indians and their ancestors who had signed the treaties decades before. A deeper issue was the right to define Pacific Northwest Native American identity. The case represented "state-led efforts to define the meaning of Indian identity and to police the boundaries of that identity through federal recognition."[lxxv] Boldt's decision held the power to both constrain Native American identity and free any tribes acknowledged to practice identity generating economic production.

The actual trial did not come to court until August 27, 1973. During the trial, numerous members of various Indian tribes around the state were called forth by Stan Pitkin to testify on their understanding of the concept of "usual and accustomed" fishing grounds. Their responses to his questions illustrate the central role of fishing in Puget Sound Indian identity, as well as their desire to be a part of the new identity of potent legal activists. Lena Patrick Smith, a Stillaguamish, recalled that her earliest memories

were of her grandfather fishing with a net made of cedar bark, as well as a spear and gaff.[lxxvi] She described how far and wide her family moved and camped in order to catch enough fish to survive. She testified that her grandmother often spoke of her people's insistence on fishing rights during the treaty negotiations. Finally, and most tellingly for the role of fish in identity, she states, "I was raised on fish when I was small--my grandfather, too, he didn't care much about white man's food."[lxxvii] Time and again, participants marveled at Boldt's interest in the historical testimonies of tribal members. Many witnesses fondly recalled George Boldt leaning across his desk to listen intently to their accounts.[lxxviii]

The main argument taken by the defendants in the *US v. Washington* case was that the Muckleshoot, Stillaguamish, and Upper Skagit tribes did not hold treaty status, and so had no special off-reservation rights to fish.[lxxix] The defendants also argued that the usual and accustomed off-reservation fishing grounds of recognized treaty tribes were much smaller than those claimed by the tribes. The Departments of Fish and Game felt that the treaty phrase, "in common with," meant that Indian peoples were subject to the same Washington State rules and regulations on fishing that non-Indians were subject to.[lxxx] The defendants argued that one reason Indian fishing rights should no longer be protected was because Indian fishermen had adapted new techniques of catching fish and had adopted Anglo methods of fishing that had been imported to the state. In an open letter from the Department of Fisheries from as early as 1964, the Department mistakenly states, "The ancestors of our Indians had none of the improved fishing gear which is in use today; they fished with primitive gear and for food only."[lxxxi] However, for as long as Indian nations in the Pacific Northwest had been in contact with one another, they had

been sharing techniques and borrowing different technologies. The desire to utilize the same fishing methods practiced by settlers who migrated to Washington was necessary for local Indians to develop more intensive fishing practices in order to catch the ever smaller portion of the resource that they could.

Judge Boldt's final decision was handed down on January 11, 1974.[lxxxii] He had spent three years conducting exhaustive legal research, listening to testimony, and traveling the state collecting information from reservations and Indian elders too old to travel to his court. His final decision praised all legal counsel for having been cooperative and informative.[lxxxiii] He also condemned those who would use provocative and illegal actions to demonstrate for their rights, referring to the fish-in participants as well as Anglo fishermen who protested in retaliation of the fish-ins. In a surprise move, Judge Boldt used his decision to vindicate the Puyallup Tribe. He threw out claims by the Department of Game that the Puyallup tribe was no longer a legitimate entity and up-held their treaty status. He ruled that any seizure of gear including boats and nets that had been taken during the fishing rights struggle was illegal and must be returned.[lxxxiv] He also ruled that tribes should have the ability to regulate all their own reservation fishing with no state interference. But his biggest pronouncement came as quite a shock to both the tribes and the defendants. He decided that the treaty phrase, "in common with," meant divided equally with.[lxxxv] This meant that the Departments of Fish and Game would have to regulate fishing to ensure fifty percent of the region's fish were able to spawn up-river to Indian fishing locations. Boldt felt that his decision did not represent an expansion of treaty rights, but an enforcement of existing treaties.

For Indian nations, the Boldt decision was the opportunity they had been looking for to reinvigorate fishing as an important part of their economy and identity. And more importantly, it was seen as being an acknowledgement of Indian sovereignty. According to Billy Frank Jr., "…he gave us a tool to help save the salmon…he gave us the opportunity to make our own regulations."[lxxxvi] Andy Fernando, from the Upper Skagit Community, felt that the Boldt decision had the power to reinvigorate Indian identities, "…for young Indian boys and girls, the Boldt decision shapes a new image of self."[lxxxvii] Working together as a community through the fish-ins and the case, helped reinvigorate the sense of identity and kinship at the core of Salish values. The ruling itself affirmed the importance of group over individual identity by stating that only tribal members, not individual persons of Indian ancestry, had the right to exercise fishing rights.[lxxxviii]

According to historian Alexandra Harmon, "The decision enabled many people to fulfill a desire for recognition that being Indian had both cultural and economic worth."[lxxxix] For Pacific Northwest Native Americans, fishing may not have had the same role as a primary means of subsistence, but it maintained its role as a cultural identifier. Fish gained symbolic and economic capital. The financial benefits to reservations were significant. Prior to Boldt, Native American fishermen gathered about five percent of the resource. By 1986 that number was much closer to fifty percent. People began to return to reservations as prosperity grew there. The decision enforced the sense of a portable, protected Native American identity; one that was not confined to a reservation or an era.

The Boldt decision left many non-Indian residents in Washington with mixed emotions. The Boldt decision was seen as a devastating blow to the Anglo American commercial fishing industry and as an enforcement nightmare for the Departments of

Fish and Game. The Departments of Fish and Game, as well as the Puget Sound Salmon Canners, Gill Netters, Purse Seiners, and Reef Netters Association all were publicly and vocally opposed to the decision.[xc] Bumper stickers appeared on cars saying, "Nuts to Boldt," and, "Can Judge Boldt--Not Salmon."[xci] Numerous Anglo fishermen protested by fishing on Indian land. Most continued to ignore regulations and very few ever faced prosecution for fishing illegally. In 1978, several non-Indian fishermen rammed and shoved Lummi boats near Point Roberts. No charges were ever brought against the boat owners who claimed they were doing their civic duty.[xcii] The strongest opposition to the Boldt decision came from long time Indian rights nemesis, Thomas Slade Gorton. For Slade Gorton, Native American rights, indeed any "minority" rights were seen as a source of instability to the state. He felt treaty rights had the ability to break up lands and territory and weaken state power. Gorton became infamous for dubbing Native Americans "super citizens" with little regard for the reality of Indian life and the poverty both on and off the reservation. Gorton utilized his position as State Attorney General from 1969-1981 to weaken tribal fishing rights and was a major part of many of the 20 consecutive federal court appeals mounted to overturn *U.S v. Washington* including *Washington v. Puget Sound Gillnetters Association et al.* Litigation continues even today to refine and protect as well as challenge Boldt's historic decision.[xciii]

Nationwide anti-treaty groups were formed in the 1970s to protest the legal decisions supporting Native American tribes' treaty rights. These groups worked to discredit Native American identity as defined by their relationship with the Federal Government. In their eyes, Native Americans enjoyed special legal rights and protections that other Americans did not. Groups like Protect Americans Rights and Resources

(PARR), the Interstate Congress for Equal Rights and Responsibilities, and Steelhead and Salmon Protection Action for Washington Now (S/SPAWN) mounted massive PR campaigns to sway public interest in their favor and pressure the Federal Government to terminate treaties.[xciv]

> We will get an all-out effort to have the BIA and the Interior Department and the Senate Select Committee on Indian Affairs terminated because of their special interests for only certain Americans, based on race. That's racism if you know it or not.[xcv]

The special interest groups helped force Initiative 456 on voters in Washington. The initiative was framed as a conservation measure, but would have terminated all Indian off-reservation fishing rights had it been enforced. These nationwide anti-treaty groups equated treaty rights with race, not with the legal bargains Native Americans had made with the government to protect their access to lands and rights. In response to the campaigns of these groups, Northwest tribes issued their own press releases like "First Our Lands….Now Our Treaties" and other non-Indian coalitions were formed to support the Boldt decision. In 1970 the National Coalition to Support Indian Treaties was founded to provide assistance and legal advice to treaty tribes involved in the Boldt case.

However, not all Americans agreed with the fishermen's stance. Letters flooded into the Governor's office supporting the fifty percent allocation of fish to treaty tribes. The September 1987 *USA Today* ran an editorial polling nationwide opinions on treaty rights. The majority of Americans were pro-treaty rights as the courts had been interpreting them. A survey in Washington State conducted by C. Montgomery Johnson illustrated that the majority of those polled felt, "Indians have been treated unfairly in this country, that they have not been this country's favored citizens, and that the Indian side of history should be emphasized more in our schools."[xcvi]

In response to the new legal protections of the Boldt case, Pacific Northwest treaty tribes were able to form various management systems. Native nations of the Pacific Northwest were given an opportunity to manage their own environments, in conjunction with state agencies, but manage nonetheless. It was a victory for self-determination over federal oversight in Indian lives. It would also force state regulation agencies to pay heed to Native American knowledge and methods of conservation. The Northwest Indian Fisheries Commission was the largest co-management organization.[xcvii] The Commission was founded in 1974 by nineteen Northwest tribes to coordinate fishing and conservation efforts, and to represent those tribes on fishing issues before state and federal agencies. The Commission maintains a headquarters in Olympia and offices in each treaty area. The new management agencies were important because they provided the tribes with a tool in which to overcome the centralized control of the BIA, as well as providing a tool to foster economic self-sufficiency on and off reservations. Once-invisible tribal governments were suddenly visible political players. For generations, the federal government had utilized management agencies as a method of imposing surveillance and censure of Native American communities. The Boldt decision brought a modicum of sovereignty to Native Nations by providing vehicles for self-management, and protecting the practice of traditional cultural lifestyles.

Protest, in and of itself, was often viewed as a "non-Indian" act; something that Native American people just didn't do.[xcviii] Yet, how "Indian" was taking a case to court to protect legal treaty rights? The question of authenticity permeated the entire fishing rights case in the Pacific Northwest, both during the fish-ins and after the court case. With the outcome of the Boldt decision being to reaffirm the authenticity of the treaty

signing tribes, many of whom had participated in the fish-ins, and denying the authenticity of those tribes who had not signed treaties in the 1840s and 50s.

The Boldt decision became an exegesis for many Pacific Northwest Indians in their sense of fishing as an integral part of their unique identity. However, the Boldt decision was certainly not the ultimate expression of that identity. While it may seem obvious that Indian identity has often been contested from the outside, the inner conflicts of Indian identity are even more complex. The participants in the fish-ins were members of numerous different tribes and nationalities. They came from reservations and cities, from Indian communities that lived outside the pale of the Bureau of Indian Affairs, to Tribal Chairmen and women. For many more conservative Indians, the acts of civil disobedience practiced by the protesters were more hurtful to the cause than helpful. While the right to fish and the need to recognize treaties was generally universally supported by Indians in the Pacific Northwest, the fish-ins were often condemned.[xcix] But for almost all Pacific Northwest Native Americans, the fish-in and the Boldt decision helped to redefine and reestablish a sense of place and belonging to the land by creating further involvement with the land and resource. The Boldt decision created symbolic and real capital for Native Americans to spend.

For Salish people of the Pacific Northwest, identity was closely tied to fishing. With the signing of treaties with the Federal government, identity became imposed. Tribes were either signatories who retained fishing rights as defined by the Federal government, or they were simply residents of the territory and later state of Washington. All cultural identities are historically constructed though, and with the passage of time, the right to fish gained importance due to its ability to define both the culture and

tradition of Salish people, as well as their special relationship with the Federal government. Asserting claims to treaty and fishing rights became in and of itself an act of self-determination. Gaining legal enforcement of treaty rights via the federal court system was an act of sovereignty.

In the end, the outcome of the Boldt decision and of the fish-ins became about more than fishing rights in the Pacific Northwest. The fishing rights struggle helped create a new awareness in the halls of the federal government that Indian sovereignty was not only imminent, but practical and essential to the creation of a strong working relationship between federal and Indian political groups.[c] In order to achieve the protection of traditional cultures, Pacific Northwest Native Americans were forced to situate their claims in the realm of the colonizer, or federal government. But this did not mean they were prostrating themselves to that power. From the time of the treaties, Native American tribes have utilized the imposed systems of power as a tool to retain their own systems of power. By 1975 the US government had set aside fantasies of assimilation and termination, and had committed itself, sometimes half-heartedly, to self-determination and, "maximum Indian participation in the government and education of the Indian people."[ci]

Today, the role of fish in the creation and retention of a Pacific Northwest Native American identity has individual, tribal, and pan-Indian significance. Identity is something chosen, as well as being something intrinsic. Culture is made and unmade in the framework of sociopolitical mobilization and ideological strategizing. "The treaty and federal law, fishing and Indianess, form a system of meanings which has been passed down though time."[cii] The Pacific Northwest Indians' stand for fishing and treaty rights

meant that they were actively choosing to utilize fish as an important aspect of their identity through their opposition to the encroachment of their rights. Historically the ability to fish and so gain wealth and status translated into political power for Pacific Northwest nations. Therefore, the ability to retain the right to fish is, in essence, the ability to retain traditional systems of power and, thus, governance, as well as a new sense of unity and purpose for a new generation. In the words of Billy Frank Jr., "You see people working together, you get energy. You start to trust each other. If the salmon were watching, he could see that energy move."[ciii]

[i] Throughout this paper, when I refer to the Boldt decision/case or *U.S. v Washington*, I am referring to *United States v. Washington,* 384 F. Supp. 312 (W.D. Wash. 1974), *aff'd,* 520 F.2d 676 (9th Cir. 1975) *cert. denied,* 423 U.S. 1086, 96 S. Ct. 877, 47 L. Ed. 2d 97 (1976) though there were later judgments also known as *U.S. v. Washington* (1978, 1994 etc.) as well as the *U.S. v Washington* Civil No. 70-9213 which adjudicated tribal usual and accustomed grounds and stations.

[ii] This paper was presented at the Organization of American Historians Conference in Houston, TX March 2011. I would like to thank fellow panelist Andrea Geiger for her comments and our chair and commentator William Bauer for his terrific insights. The oral interviews were conducted as part of a larger research project which attempts to frame the various Native American protest movements in the Pacific Northwest (ie-fish-ins, land occupations such as Fort Lawton Seattle, marches and rallies and the office takeovers of the Bureau of Indian Affairs) in the 20th century in a regional as well as national context. Archival research was completed at the Washington State Archives in Olympia, the Special Collections at the University of Washington, the Seattle Municipal Archives, and at the Hugh and Jane Ferguson Seattle

Room at the Seattle Public Library. With these oral interviews and archival research, I hope to be able to contrast views on identity in relation to fishing, treaties, protest and the Boldt case for both Indian people involved in the fishing rights struggle and Anglo fishermen, lawyers, observers, and other non-Indian people affected by the protests and the rulings.

[iii] It has been argued that the fish-ins were more of a hindrance or detriment to the Boldt proceedings than a benefit. However, I argue that the fish-ins directly affected the Boldt case as evidenced by the fact that the legal counsel for the tribes during the Boldt trial was the same legal counsel during the fish-ins. Also, witnesses who heavily affected Judge Boldt's final decision were related to or directly involved in the fish-in protests. Lastly, the simple fact of dates must be taken into account. The fish-ins preceded the Boldt trial and the trial may never even have come to court had the protests not occurred.

[iv] Before receiving the case, Judge George H. Boldt complained to a law clerk, "I don't want to hear any more of these damn Indian fishing cases." In Beth Hege Piatote, "Against the Current" in *A Place at the Table: Struggles for Equality in America,* ed. Maria Flemming (Oxford: Oxford University Press, 2001) 107. See also, Judge Boldts final ruling *U.S. v Washington,* 384 F. Supp. 312 (Western District of Washington, 1974) For information on the connections between tribal leaders, protesters, and the case filing see, chapters 7-15 in Alvin J. Ziontz, *A Lawyer in Indian Country* (Seattle: University of Washington Press, 2009)

[v] Identity relates to "historical relationships to and presense on particular territories; narratives about place, phenotype, kinship as substantiated through blood quanta; kinship as traced through descent; residence and locality; language; and ritual/ceremonial lifeways." Les W. Field, *Abalone Tales: Collaborative Explorations of Sovereginity and Identity in Native California* (Durham and London: Duke University Press, 2008) 10.

[vi] Other significant cases in the Pacific Northwest include, *U.S. v The Alaska Packers Association* C.C. Wash., 79F 152 (1897) *U.S. v. Winans,* 198 U.S. 371, 25 S. Ct. 662, 49 L. Ed. 1089 (1905) *Tulee v. Washington,* 315 U.S. 681, 62 S. Ct. 862, 86 L. Ed. 1115 (1942) *Puyallup I* Puyallup Tribe of Indians v. Dept of Game, 391 U.S. 392, 88 S. Ct. 1725, 20 L. Ed. 2d 689 (1968)

[vii] Fay G. Cohen, *Treaties On Trial: The Continuing Controversy Over Northwest Indian Fishing Rights,* A Report Prepared for the American Friends Service Committee (Seattle: University of Washington Press, 1986) 69.
[viii] Felix Kolb, *Protest and Opportunities: The Political Outcomes of Social Movements* (Chicago: University of Chicago Press, 2007) 73.
[ix] See, Frances Fox Piven, *Challenging Authority: How Ordinary People Change America* (Lanham, MD: Rowman and Littlefield, 2008) as well as Kolb, *Protest and Opportunities.*
[x] Karl-Dieter Opp, *Theories of Political Protest and Social Movements: A Multidisciplinary Introduction, Critique, and Synthesis* (NY: Routledge, 2009) 6. See also, Marco G. Giugni, "Structure and Culture in Social Movement Theory" review essay, *Sociological Forum,* Vol. 13, No. 2 (June, 1998), pp. 365-375.
[xi] Hank Johnston, ed., *Culture, Social Movements and Protest* (Burlington VT: Ashgate Publishing Co., 2009) p. 4.
[xii] Field, 9.
[xiii] American Friends Service Committee, *Uncommon Controversy: Fishing Rights of the Muckleshoot, Puyallup, and Nisqually Indians* (Seattle: University of Washington Press, 1970) 70.
[xiv] Ibid.
[xv] Randy Lewis, interview by Vera Parham, January 23, 2005, author's collection.
[xvi] Defined in relation to the *U.S. v. Washington*, "case area" as "that portion of the State of Washington west of the Cascade Mountains and north of the Columbia River drainage area, and includes the American portion of the Puget Sound watershead, the watersheads of the Olympic Peninsula north of the Grays harbor watershead, and the offshore waters adjacent to those areas" *U.S. v Washington*, 384 F. Supp. At 328. All cultural identities are historically constructed, so, when I discuss a "traditional" Native American lifestyle, I refer to a self-reflexive sense of identity that contains the following elements: a connection to and presence in specific territories, shared stories of place or history, kinship, the practice of specific economic or cultural practices like fishing, and to an extent, language.
[xvii] For an excellent discussion of indigenous sustainability practices see; Russell Caskey, "The Paradox of Sovereignty: Contingencies of Meaning in American Indian Treaty Discourse." *American Indian Culture and Research Journal* 32, no. 1 (2008): 1-19.
[xviii] Pierson Mitchell and Winona La Duke, *All Our Relations: Native Struggles for Land and Life* (Cambridge, MA: South End Press, 1999) 1.
[xix] Field, 141.
[xx] For an excellent analysis of the treaty council process and outcomes see, Alexandra Harmon, ed., *The Power of Promises: Rethinking Indian Treaties in the Pacific Northwest* (Seattle: Center for the Study of the Pacific Northwest, University of Washington Press, 2008)
[xxi] John Brown and Robert Ruby, *Indians of the Pacific Northwest* (Norman: University of Oklahoma Press, 1981) 131.
[xxii] The treaties included; the Medicne Creek Treaty, 1854; Treaty of Point Elliott, Treaty of Point No Point, Treaty of Neah Bay, Treaty with the Walla Walla, Cayuse and

Umatilla, Treaty with the Yakima, Nez Perce Treaty, Treaty of Hell Gate, Treaty with the Blackfeet; 1855 and the Quinault Treaty, 1856.

[xxiii] Record of Treaty of Point No Point council proceedings, January 26, 1855, Exh. PL-15, Joint Appendix to *US v. Washington*

[xxiv] In a letter about the Yakima treaty council, held in the Walla Walla Valley in June of 1855, Stevens discussed how the leaders insisted on more grounds at which to fish. Governor Isaac Stevens and Superintendent Joel Palmer, to Commissioner of Indian Affairs Manypenny, Walla Walla Valley Council Grounds, June 13, 1855. Isaac Steven's Papers, University of Washington Special Collections.

[xxv] Article III of the Treaty with the Nisqually, Puyallup, etc. Dec. 26, 1854. 10 Stat., 1132. Ratified March 3, 1855. Proclaimed April 10, 1855.

[xxvi] Russel Lawrence Barsh, *Understanding Indian Treaties as Law* (State Superintendent of Public Instruction, State of Washington, 1978) 59. When Governor Stevens launched his treaty making campaign, he and the rest of the new residents of Washington had little inkling of how much a commercial fishery could be worth to Anglos. Ironically enough, Stevens acknowledged how important the fishing industry was to Indians by noting that 10,000 pounds of fish came in a day to Seattle from local tribes. He also noted that Anglo settlers who had no inclination to fish were more than happy to purchase or trade for fish with the Native American people, again noting the economic importance of the commercial fishery for American Indians. Isaac Steven's Papers. UWSC.

[xxvii] Hapgood, Hume and Company built the first cannery on the Columbia River in 1866. By 1883 there were 55 canneries in the area. In Cohen, *Treaties on Trial,* 40.

[xxviii] For an excellent discussion on economic imperatives and anachronisms in Native American identity see, Alexandra Harmon, *Indians in The Making: Ethnic Relations and Indian Identities around Puget Sound*
(Berkeley: University of California Press, 2000) 106.

[xxix] Chris Friday in Daniel L. Boxberger, *To Fish In Common: The Ethnohistory of Lummi Indian Salmon Fishing,* (Seattle: University of Washington Press, 2000) ix.

[xxx] Brown and Ruby, *Indians of the Pacific Northwest* (Washington State Session Laws 171,1891) 259.

[xxxi] The arrests began as early as the 1890s, but became increasingly intense by the 1940s. Charles Wilkinson, *Messages From Frank's Landing: A Story of Salmon, Treaties, and the Indian Way* (Seattle: University of Washington Press, 2000) 4.

[xxxii] Field, 140. Mike Davis discusses this premise in relation to Native Americans of California in his work, *Ecology of Fear: Los Angeles and the Imagination of Disaster,* (NY: Metropolotian Books, Henry Holt and Co., 1998)

[xxxiii] *United States v. Taylor,* 3 Wash. T. 88 (1887).

[xxxiv] *United States v. Winans,* 198 U.S. 371, 25 Sup. Ct. 662, 49 L.Ed. 1089 (1905).

[xxxv] Tensions over who was to blame for the declining resource can be seen in press coverage from the 19th and 20th century which accuses nationals such as Japanese, Chinese, Canadians, Russians, Koreans and finally Native Americans as culprits. See "Washington Territory" *The Washington Standard,* 9/15/1877. "Siwash Village on Tacoma Tide Flats" *Seattle Post-Intelligencer,* 1907. Art Chin, *Golden Tassels: A History of the Chinese in Washington, 1857-1977* (Seattle: Art Chin, 1977)

[xxxvi] By 1921 the state had acknowledged sewage and oil as major pollution concerns and later industrial chemicals were added to that list. In court testimony from the 1970s Boldt trial, Esther Ross, a Stillaguamish recalled back to the 1930s when pollution began to build up and the fish population decline. Ester attributes the loss of fishing grounds and rights of her people not to just state intervention, but also to "pollution-trash in the river, garbage, (and) dead animals." Written direct testimony of Esther Ross, *United States v. State of Washington.* Muckleshoot, Squaxin Island, Skokomish, Sauk-Suiattle and Stillaguamish Tribes, Exhibits Before the Court, Exhibit # MS-7. Date Admited, 9/10/1973.

[xxxvii] Timber harvesting can be incredibly detrimental to anadromous fish because it raises stream temperature and causes silt to build which kills not only fish, but their eggs. Un-removed timber in streams can also block migration routes.

[xxxviii] By 1948 there were 300 dams on the Columbia and its tributaries! By the time the dams were running in full force in 1948, fish catches had declined almost 300,000 pounds per year. In Cohen, *Treaties on Trial,* 45.

[xxxix] Lawney continually discusses the importance of fish to his Sin-Aikst people's way of life and economy in Reyes, *White Grizzly Bear's Legacy.* In Eastern Washington, the families of Randy Lewis and Lawney Reyes, who both grew up on the Colville Reservation, lost land and fishing grounds when the Bonneville Dam was built there in 1937. Oral Interview of Lawney Reyes, by Vera Parham, January 26, 2005, authors collection and Lewis Interview.

[xl] It's interesting to note that the Department of Game is not actually a State funded agency, but is instead answerable to the private interests who fund it through hunting and fishing licenses and tags. The Department of Game was separated from Fisheries by the Legislature in 1933, and oversees the regulation of steelhead. The head of the Department of Game is also voted in by the license holders, he is not appointed by the Governor like the head of the Department of Fisheries is. This helps explain why the Department of Game has always been less flexible about Indian fishing rights than the State controlled Department of Fisheries has been.

[xli] Charles Wilkinson, *Messages From Frank's Landing: A Story of Salmon, Treaties, and the Indian Way,* (Seattle: University of Washington Press, 2003) 30.

[xlii] Barsh, *Understanding Indian Treaties As Law,* 55.

[xliii] Ibid.

[xliv] Boxberger, *To Fish In Common,* 8.

[xlv] Wilkinson, *Messages From Frank's Landing,* 34.

[xlvi] Bruce Brown, *Mountain In the Clouds: A Search for the Wild Salmon* (Seattle: Univeristy of Washington Press, 2010) 155.

[xlvii] Joane Nagel. *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996) 161.

[xlviii] Alvin M. Josephy Jr., *Now That the Buffalo's Gone: A Study of Today's American Indians*, (Norman: University of Oklahoma Press, 1984) 188.

[xlix] Though Satiacum did have regional support, he did not always work well in larger groups and found himself in legal troubles that went beyond illegal fishing charges.

[l] Cohen, *Treaties on Trial,* 71.

[li] Wilkinson, *Messages From Frank's Landing,* 44.

[lii] Hank Adams, "NIYC and WA State." *Americans Before Columbus,* July 27, 1964. 7.

[liii] Mel Thom from "From Time Immemorial." 417, in Bradley G. Shreve, "The Fish-in Movement and the Rise of Intertribal Activism." *Pacific Historical Review* 78, no.3, 403-434.
[liv] Media coverage influences the political outcomes of social movements through promoting understanding and thus support, providing a sense of the protesters demands, and affecting policymakers by giving them a framework to understand the issues at stake. See Felix Kolb, *Protest and Opportunities.*
[lv] State of Washington Department of Fisheries, George C Starlund, Director. "Indian Fisheries Problem." 1964. Special Collections Seattle Public Library, The Hugh and Jane Ferguson Seattle Reading Room.
[lvi] Walter Neubrecht to Peter Collier, *Salmon Fishing In America,* in *Ramparts* 9, no.9, April 1971. 14. Neubrect went on to publish "Indian Treaties-American Nightmare" in 1976 which became known as the "bible" of the anti-treaty movement. From, "First Our Land, Now Our Treaties" 1985. Box 19, folder 4, C. Montgomery Papers, University of Washington Special Collections.
[lvii] Peter Collier, *Ramparts,* April 1971.15.
[lviii] The fact that racist acts were on the rise due in part to the fish-ins is well discussed in a report on the situation of Pacific Northwest Indian tribes for the Governor. A Report of the Indian Affairs Task Force Committee and the Governor's Indian Advisor Committee, "Are You Listening Neighbor?" State of Washington. 1971.
[lix] Collier, *Ramparts*.
[lx] John Meyer, ed, *American Indians and U.S. Politics: A Companion Reader,* (Westport, CT: Praeger Publishers) 2002. p. 101. At this point Attorney General Brock Adams became involved, prompting the FBI to conduct a full scale investigation of the shooting of Hank Adams, though the culprits were never arrested. Memorandum, nd. Box 12, Brock Adams Papers, University of Washington Library Special Collections.
[lxi] Maiselle Bridges in *Akwesasne Notes* 2, no.6. October 1970.
[lxii] Sidney Mills in Alvin Josephy Jr., Joane Nagel, and Troy Johnson, eds., *Red Power: American Indian's Fight for Freedom,* (Lincoln: University of Nebraska Press, 199l) 25.
[lxiii] Cohen, *Treaties on Trial,* 75.
[lxiv] "Indians Will Police Fish-Ins" *Seattle Post-Intelligencer,* August 14, 1970, p. B.
[lxv] Josephy, *Now That the Buffalo's Gone,* 202.
[lxvi] Wilkinson, *Messages From Frank's Landing,* 49-50.
[lxvii] *United States v. State of Oregon,* 302 F. Supp. 899; 1969 U.S. Dist. LEXIS 9899, (1969).
[lxviii] *United States v. State of Washington* 384 F.Supp 312, 459 F.Supp. 1020, 476 F. Supp. 1101. (1974).
[lxix] Alvin J. Ziontz, *A Lawyer in Indian Country, a Memoir,* (Seattle: University of Washington Press, 2009) 49.
[lxx] Wilkinson, *Messages From Frank's Landing,* 50.
[lxxi] The tribes included in the case and subject to the final decision are; Quinault, Queets, Makah, Lummi, Hoh, Muckleshoot, Squaxin, Nisqually, Puyallup, Sauk-Suiattle, Skokomish, Confederated tribes, and bands of the Yakima Indian Nation, Upper Skagit River, Stillaguamish, and Quilute. Boxberger, *To Fish In Common,* 154.
[lxxii] Wilkinson, *Messages From Frank's Landing,* 55.
[lxxiii] Pitkin had been an observer at the violent September 9th police raid on a Puyallup fishing camp. Pretrial brief, Stan Pitkin United States Attorney. *U.S. v. Washington*

[lxxiv] Non-tribal members like expert witness Dr. Barbara Lane were crucial in convincing Judge Boldt of the history and rights of the Pacific Northwest treaty tribes. Special Assistant US Attorney Stuart Pierson outlined an entire ethno-history of the co-plaintiff tribes which illustrated how and when salmon had been harvested.
[lxxv] Field, *Abalone Tales,* 10.
[lxxvi] Written direct testimony of Lena Patrick Smith, *U.S. v. Washington,* Exhibit #MS-5.
[lxxvii] Smith testimony.
[lxxviii] Ziontz, 109-112.
[lxxix] *U.S v. State of Washington*, 384 F.Supp 312, 459 F.Supp. 1020, 476 F. Supp. 1101. (1974).
[lxxx] AFSC, *Uncommon Controversy,* 134.
[lxxxi] State of Washington Department of Fisheries, George C Starlund, Director. "Indian Fisheries Problem" 1964. Washington State Archives.
[lxxxii] *U.S v. Washington*
[lxxxiii] Counsel for all parties presented 50 witnesses whose testimony was reported in 4,600 pages of trial transcripts!
[lxxxiv] Cohen, *Treaties on Trial,* 13.
[lxxxv] The reasoning behind the decision is that the definition of "in common with" in the 1828 *American Dictionary of English Language,* is 50-50, or split in half. In Brown, *Mt. In the Clouds* 158.
[lxxxvi] Billy Frank Jr. in Wilkinson, *Messages From Frank's Landing,* 62.
[lxxxvii] Andy Fernando in Cohen, *Treaties on Trial* xxv.
[lxxxviii] Office of the Attorney General, Fish, Wildlife and Parks Division, "Prosecutors' Manual for Fish and Wildlife Violations" Revised March 2007. Olympia, WA. p. xxiii. This argument also cuts down the oppositional argument that the fish-ins were about individual economic opportunity and gain put forward by Anglo fishermen.
[lxxxix] Harmon, *Indians in the Making,* 243.
[xc]A flurry of letters can be found in editorial pages of various newspapers as well as letters from the head of the Puget Sound Salmon Canners, Bill Hingston; Garland E. Morrission, the president of the Steelhead Trout Club of Washington; Ben Cain, the Secretary Treasurer of the Puget Sound Gill-netters Association; and Jake Medcalf, President of the Northwest Steel-headers Council of Trout Unlimited to the Governor of Washington decrying the Boldt decision and pleading with the State to continue to press the case in order to have the decision reversed. Governor Daniel Evans Papers, Washington State Archives.
[xci] Cohen, *Treaties on Trial,* 15.
[xcii] *Seattle Post Intelligencer,* August 28, 1978. A-1.
[xciii] One very significant civil case which has defined the "usual and accustomed" fishing areas for treaty tribes *U. S. v. Washington,* Civil No. 70-9213 (W.D. Wash.)
[xciv] One leg of the campaign that was successfully defeated was the selling of "Treaty Beer" to fund further anti-treaty ads. Washington State consumers refused to purchase the beer.
[xcv] Unidentified press release, C. Montgomery Johnson Papers, box 9. University of Washington Library Special Collections.

[xcvi] Summary of C. Montgomery Johnson news conference explanation of statewide surveys conducted for the Yakima Indian Nation during Jan-Feb 1978. CMJ papers, box 20. UWSC.
[xcvii] Other management groups include the Northwest Renewable Resources Center, a nonprofit resource protection group founded in 1984 to work with all the groups impacted by the decision to ensure the treaty tribes received their fair share of the allotment.
[xcviii] For general American reaction to American Indian protest in the 60s and 70s see, "Wounded Knee and All That: What the Indians Want" *New York Times,* March 18, 1973. p. 18. Fish-in protests were often derided in the local press, ie-James Mahaffie in *The News Tribuine of Tacoma* Views Page, 1971. Box 80 folder 8, Frederick T. Haley Papers, University of Washington Special Collections. Directors of state agencies, especially the Washington State Department of Game attempted to mount a campaign against protest support by arguing it was a minority of Pacific Northwest Native Americans, fueled by radical outsiders participating in fish-ins and other protests. See, Carl Crouse, Director Washington State Dept. of Game, "Direction of Indian Treaty Intrepretation" transcript of speech delivered to the International Association of Game, Fish, and Conservation Commissioners 1974. Box 18, folder 3. Brock Adams Papers, University of Washington Special Collections. There were also tribal members who questioned the ethos and validity of public protest. See, letters written by Suzette Bridges Mills to the Puyallup Tribal Council expressing concern over the lack of official support for protesters 8/16/1971. Mills to Don Matheson, Tribal Chairman. Box 8 folder 6, Frederick T. Haley Papers, UWSC. See also, "Tulalip Indians Support State Fishing Rules" *The Seattle Times,* April 11, 1962 and "Non-Treaty Indians Back Set-Net Ban" *The Seattle Times,* January 9, 1962.
[xcix] Vine Deloria Jr., *Custer Died For Your Sins: An Indian Manifesto* (Norman: University of Oklahoma Press, 1984) 23 and 250.
[c] When it comes to sovereignty, it's important to remember that the Indian Reorganization Act allowed for most Pacific Northwest Tribes to include clauses in their constitutions that protected their right to manage their own fisheries without state interference. In AFSC, *Uncommon Controversy.*
[ci] Meyer, *American Indians and US Politics,* 105.
[cii] Mark Allen Suagee, "The Creation of an "Indian Problem" Nisqually and Puyallup Off-Reservation Fishing" Master of Arts Thesis, University of Washington, 1973, p. 78.
[ciii] Billy Frank Jr. in Cohen, *Treaties on Trial,* 188.