

POLITICAL AND ECONOMIC ASPECTS

OF

INDIAN-WHITE CULTURE CONTACT

IN

WESTERN WASHINGTON

IN

THE MID-19TH CENTURY

BY

BARBARA LANE, PH. D.

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SUMMARY OF BIOGRAPHICAL DATA

PROFESSOR BARBARA LANE

Ph.D. University of Washington, Anthropology, 1953

Professor of Anthropology, University of Washington,
University of Hawaii, University of Pittsburgh,
University of British Columbia, University of
Victoria, B.C., and Western Washington State
College

Field work with Northwest Indians intermittently 1948
to present time. Field work New Hebrides Islands and
India

Presently a private anthropological consultant.
Testimony given as expert witness in State v. Moses,
79 Wn.2d 104.

These reports have been published and are available in the
historical records of the Department of the Interior, and on the records
of other anthropologists. The following colleagues and available
interview data from the area of the Coast Salish and Nootkan
of their time is discussing ethnographic material. Data collected
by me, William H. Blomquist, Eric Gauthier, Sally Boyer, and
Kaye. This summary contains two kinds of statements -- matters
of record and matters of opinion. Documentation on specific
tribes is not provided here, but is available in the full report
of which this is a summary. Matters of record are indicated by

phrasing such as "available documentation demonstrates" and state-
ments of opinion are duly noted as such.

This report is limited to the Coast Salish and Nootkan
speaking peoples residing west of the Cascade Mountains in the
geographic area covered by this case.

By: Barbara Lane, Ph.D.
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Dr. Barbara Lane

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I. Indian Life at the Time of the Treaties

A. General Structure of Indian Life

Aboriginally and during the time when the treaties were negotiated, Indian settlements were widely dispersed throughout western Washington. Population density was higher than almost anywhere else in native North America north of Mexico. These two conditions depended upon (a) the peculiar potentialities of the habitat and (b) the successful and efficient utilization of available resources by the native population. Some fresh food was available on a year-round basis throughout much of the area, but the critical factor was that anadromous fish were available in prodigious quantities at predictable times. Efficient taking-techniques made it possible to harvest large numbers of fish as they ascended the rivers. Well-developed food preservation techniques insured that the huge harvest could be saved for use over an extended period of time. However, this was not a "lotus land" in which the native fisherman in a few hours' time could obtain a year's supply of food for his family.

The indigenous population occupied a series of ecological niches with varied topographic and climatic characteristics. Winter villages were situated on protected bays and inlets and along the rivers and streams. During the winter season, when people remained in their permanent villages, those living near the foothills contended with snow conditions unknown to the saltwater dwellers. These differing conditions materially affected the types of fresh foods accessible to the coastal and inland peoples during the cold weather.

In other seasons, when people ranged over a wider area and set up temporary camps at fishing locations, shell-fish collecting grounds, and the like, they were able to share access to resources not available in the immediate vicinity of their winter villages. Nevertheless, local differences in topography, rainfall, temperature and wind conditions remained important even though the area concerned was larger. The foregoing factors determined in part where particular species would be found, their accessibility, and, in some cases their utility. Wind-drying of salmon, for example, as contrasted with sun-drying or smoking, was feasible only in a few locations.

There was considerable local diversity in the availability of animal, plant, and mineral resources used for food and artifacts. For example, the Makah had access to whale and halibut; the Stillaguamish and Sauk-Suiattle to mountain goat. The Lummi apparently imported various fibers and grasses from upriver Skagit and flint from Puget Sound. The Makah imported red ochre and diatomaceous earth from the Quileute. Red ochre was made from hematitic soils and was used for paint. Diatomaceous earth was used as a kind of soap for removing excess natural oils from dogs' wool used in the manufacture of native blankets.

Extensive trade was carried on among Indian groups in western Washington in order to acquire food stuffs, raw materials, and manufactured goods not available locally. The trade involved both basic necessities and luxuries of native life. The trade existed

because different localities had different resources. The

variation in local habitats is an important factor in understanding the native economy.

Despite the important local differences, it is still

possible to make valid generalizations regarding Indian life west

of the Cascades during treaty times.

The rugged hills and mountains and dense forest cover

made communication by land exceedingly difficult over much of the

area. The terrain and cover also set limits to the value of the

land as a game and plant food collecting area. Apparently the

heavily wooded areas supported a relatively sparse animal and bird

population. Early travellers consistently reported the wooded

areas in western Washington as silent, trackless, and little

frequented by the Indians. According to the reports, the sighting

of numerous animals invariably indicated the proximity of a natural

prairie or clearing.

The forest animals included bear and cougar, the smaller

tree-climbing species like fisher, martin, lynx, racoon, and

squirrels, as well as smaller quadrupeds such as mice. None of these

was important to the Indians as a source of food. The larger land

animals which were important to the Indians, like deer and elk,

obtained most of their food in the open areas and may be considered

prairie dwellers.

Prairies were also important food areas to the Indians in

that root crops such as camas and wappato, wild onions and wild

carrots were located in the open grounds. These natural prairies, which provided the only important land food areas for the Indians, were the first areas to be taken over by pioneer settlers who wished to farm without the arduous labor of clearing forested land.

Some of the inland groups hunted land animals more than their downstream neighbors and frequently game would be traded downstream for shellfish or other coastal commodities. There are occasional reports in the literature that a particular inland group depended primarily on hunting. No supporting evidence has been found to support such an assertion. The record indicates that nowhere in the area covered by this report did land game supplant fish as the staple food. For western Washington Indians, land resources were not nearly so important for food as saltwater and freshwater resources.

If the land environment posed difficulties, that of the sea and waterways provided major advantages to Indian existence. The Indians invariably lived next to waterways, traveled upon them, and depended on the resources of the waters for their major livelihood.

Some of the coastal groups engaged in daring feats of marine hunting on the open sea and in the straits. Saltwater and/or freshwater fishing was actively pursued by virtually every adult male throughout the area. Fishing was the universal male occupation. Shellfish collecting was a major occupation of women and girls. Waterfowl were taken on the water, on tidelands and mud flats, in aerial nets at their flyways, and diving species were taken with underwater nets in the same fashion as fish. Aquatic plants were used for food, medicine, and artifacts such as fishing line, etc.

The water resources were rich, but again there was tremendous local diversity. Types of marine life differed in the open sea, in bays, rivers and lakes. Topographic features such as depth of water and nature of bottom or shoreline predicated presence or absence of specific species in a given locale. Halibut are found in banks of about thirty fathoms in the ocean and straits, perch are seen in shallow water off rocky shores, flounder abound in sandy estuaries and bays.

Availability varied not only from area to area, but also seasonally. This depended not only on presence or absence of a given species in local waters at different times of the year, but also on seasonal availability of suitable bait. Furthermore, storms, rough seas, and fog made fishing impossible at certain times.

In addition to areal and seasonal variations, there was considerable fluctuation in abundance and availability from year to year. Some of this was regular and predictable, as in the case of runs of certain species and races of salmon. Other causes were erratic, such as flooding and alterations in watercourses.

Insofar as food was concerned, the native habitat provided limited land resources and rich marine resources. The latter were unevenly distributed over space and time. Their successful and efficient utilization required an intimate knowledge of local environments and the locally available species and a repertoire of specialized taking-techniques. In the case of fishing, gear and techniques were specific not only as to species but also to water

conditions.

Throughout most of the area salmon (including steelhead where available) was the staple food and the most important single food resource available to the native population. This is a matter of record, attested to by historic and ethnographic evidence as well as by observations recorded in the years immediately preceding and following the 1854-1855 treaties.

An article in the July 15, 1853 issue of The Columbian, a newspaper published in Olympia, noted that "...salmon is the principle article of Indian subsistence..."

George Gibbs, the lawyer-ethnologist who helped to draft and negotiate the treaties in western Washington, wrote an ethnological treatise entitled The Tribes of Western Washington and Northwestern Oregon which was published by the Smithsonian Institution. The monograph was based on observations made in 1850-56 although it was not published until 1877. In it Gibbs reported that "...salmon form the most important staple of subsistence..."

James Swan, who served as Governor Stevens' private secretary and who published extensively both on coast Indians and on fisheries, wrote in the August 9, 1862 issue of the Washington Standard "The most important fish taken in this Territory, both as regards the quantity and extensive use made of it by the natives for food, is the Salmon, of which there are sixteen distinct varieties, including the trout, which belong to the family of Salmonidae."

A great challenge was posed by the fact that this species could be taken in vast quantities, but only at particular periods of limited duration. To harvest this resource efficiently, the following were needed: (a) equipment of extensive size requiring cooperative effort (e.g., weirs, seines, reef-netting gear); (b) food-preservation techniques (e.g., sun-drying, wind-drying, smoking) and storage facilities (e.g., cedar boxes, baskets, bladders and kelp containers for fish oil, and smoke houses) so that the huge surpluses could be used later; and (c) an exchange system whereby local surpluses could be redistributed to people in other areas (e.g., ceremonial exchanges, trade).

The major food acquisition techniques in the area were fishing, hunting of land animals and sea-mammals, the collection of wild foods such as mollusks and other intertidal marine life, berries, and the digging of edible roots, shoots, and bulbs.

In order to take these foods as they became available at certain places and seasons, it was necessary for people to range over the country to be on hand when the camas bloomed or the berries ripened or the salmon began to run. These seasonal movements were reflected in native social organization. In the winter, when weather conditions generally made travel and fishing difficult, people remained in their winter villages and lived more or less on stored foods -- dried meat and berries and dried and smoked fish. Fresh fish and other foods were harvested during the winter. That

season, however, was devoted primarily to intra- and intervillage ceremonies and manufacturing tasks. This was the time when people were congregated into the largest assemblages, occupying long multifamily houses made of split cedar planks. Throughout the rest of the year individual families dispersed in various directions to join families from other winter villages in fishing, clam digging, harvesting camas, berry picking, and other economic pursuits. People moved about to resource areas where they had use rights based on kinship or marriage. Such rights were clear cut and important in native society, but were not readily discernible to outside observers of Indian life. Ambiguity was compounded even for observant resident settlers because families did not necessarily follow the same particular pattern of seasonal movements every year. This gave non-Indians the impression that there was no stable political organization. The winter village had no "head chief" or "village council." Leadership and authority tended to be task oriented with the appropriate specialist taking over leadership according to the occasion, e.g., hunting party, communal fish drive, raiding party, life crisis ceremony.

Native society was hierarchical, in which upper-class people, commoners, and slaves were recognized. In parts of the region, stewardship rights and duties over resource-producing areas such as clam beds, reef-net locations, cranberry bogs, or camas beds were inherited.

The dense populations, stratified social organization, and complex ceremonial life which characterized native culture in

western Washington was made possible because of the effective utilization of available resources and the highly efficient means of redistributing periodically available surpluses.

B. Function of Fishing in Indian Life

The first-salmon ceremony, which was general through most of the area, differed in detail and was celebrated over different species from community to community. This was essentially a religious rite to ensure the continued return of salmon to the area. The symbolic acts, attitudes of respect, and concern for the well-being of the salmon reflected a wider conception of the interdependence and relatedness of all living things which was a dominant feature of native world view. Such attitudes and rites insured that salmon were never wantonly wasted and that water contamination was not permitted.

Elmendorf (1960:62) gives the following comments for the Twana (Skokomish) based on field work which began some twenty years prior to publication.

Most ritually determined acts with reference to river fishing had to do with the salmon run and were directed toward insuring its continuance. The river had to be kept clean before salmon started running. HA [informant] defined the period as starting in early August (for the Skokomish), before the first king salmon came. From this time no rubbish, food scraps or the like, might be thrown in the river; canoes were not bailed out in the river; and no women swam in the river during menstrual seclusion. The object of these precautions was to insure that the salmon would want to come.

In native society, surplus food could be converted into wealth (canoes, blankets, slaves, shell ornaments). Dried or smoked

salmon was easily stored and transported. At the same time, keeping qualities were of limited duration. Surplus preserved salmon was usually consumed or distributed within the year.

Distribution was effected through complex exchange systems involving voluntary gift giving to kin and friends, reciprocal gifting to specified affinal kin which sometimes became competitive, intercommunity feasting, potlatching, and outright sale and trade beyond the local community and sometimes over great distances.

As the staple food, salmon was eaten either in fresh or cured form throughout the year. The large number of salmon recipes and variety of cooking methods, as well as the extensive trade in salmon, attest to the effort made to avoid monotony in the diet.

Trade was carried on to secure salmon species which did not run in local streams. In Makah territory, for example, sockeye did not visit any of the streams emptying into the Strait of Juan de Fuca, but they did ascend Ozette River to spawn in Lake Ozette. Sockeye were highly prized for flavor and fat content and were purchased by Indians who did not have access to a sockeye fishery.

Sometimes trade was for salmon of the same variety as that available locally. According to ethnographic accounts, people claimed to be able to taste differences between salmon of the same kind taken in different bays or streams.

Fish from the same run undergo change in flavor as they proceed from the saltwater to the spawning ground. It was not unusual

for people to exchange fish taken at the mouth and the headwaters of a given water system.

Differences in keeping qualities were an overriding reason for much of the trade in salmon. Fat fish were favored for their taste, but did not keep well in the humid climate. They tended to become rancid. The dog salmon, or chum, less tasty but lean, formed the bulk of the dried and smoked winter stores.

Salmon were traded to the Puget Sound area from across the Cascade Mountains. Gibbs (1877:170) described the commerce as follows

The trade between the two districts was once considerable. The western Indians sold slaves, haikwa, kamas, dried clams, &c., and received in return mountain-sheep's wool, porcupine's quills, and embroidery, the grass from which they manufacture thread, and even dried salmon, the product of the Yakima fisheries being preferred to that of the sound.

The comment regarding preference should be understood in the context of the foregoing discussion and in the light of Gibbs (1877:194) later comments in the same volume. Writing of the salmon in the Columbia, he noted

The salmon, which enter that river in the spring and are the only ones prized as food by the whites, do not seek either the small rivers of the coast or the lower tributaries near its mouth for the purpose of spawning, but push directly up the principal branches, such as the Willamette, the Snake, &c., to the colder waters of the mountains. . . . Later in season inferior kinds are abundant, and these also succeed in forcing their way up the larger branches, but in addition, leave detachments in every creek that enters the coast, every brook which unites with

the rivers, and even in the sloughs formed by rain in the prairies. It is at this season that the coast Indians lay up their winter supplies; for those later species possessing little fat are the easiest dried for keeping. The Indians of the interior preserve the former kinds also, which after a stay in the fresh water have lost their superfluous oil, and these are often actually traded to those Indians at the mouth of the river or on the Sound.

As the food staple, fish provided essential proteins, fats, vitamins, and minerals in the native diet.

Fishing methods varied according to the locale but generally included trapping, dip-netting, gill-netting, reef-netting, trolling, long-lining, jigging, set-lining, impounding, gaffing, spearing, harpooning, raking, and so on.

Species of fish taken, again varying according to locale, included salmon and steelhead, halibut, cod, flounder, ling cod, rockfish, herring, smelt, eulachon, dogfish, trout, and many others.

The initial effect of the influx of non-Indians into western Washington was to increase the demand for fish both for local consumption and for export. Almost all of this demand, including that for export, relied on Indians to supply the fish.

The January 15, 1853 issue of The Columbian, published in Olympia, contained an article describing the resources and potential of the country to prospective immigrants. In a plea for the development of the fisheries, the writer complained

...that what little has been done in the business of securing the salmon, has been done solely by the Indians, through their crude method, and slender appliances, and that their lazy and worthless habits prevent a sufficient bestowal of time and attention, in furnishing

any considerable quantity for export, beyond their own necessities, and what is required for present home consumption.

The article goes on to mention, among other things, that smoked salmon has been but recently shipped to China at a first cost of 25¢ per pound. Perusal of the shipping notices published in Territorial newspapers of the time document export of salmon from Puget Sound to San Francisco and to the Sandwich Islands (Hawaii) as well.

Non-Indians did not engage as fishing competitors on any scale until the late 1870's.

Available evidence suggests that Indian fishing increased in the pretreaty decade for three major reasons: (1) to accommodate increased demands for local non-Indian consumption and for export; (2) to provide money for the purchase of introduced commodities like calico, flour, and molasses; and (3) to obtain substitute non-Indian goods for native products no longer available because of non-Indian movement into the area.

C. Non-Indians' Understanding of Indian Fishing

Available evidence suggests that despite superficial awareness on the part of some of the treaty commissioners that there were special rites, ceremonies, and observances concerning fish and fishing, there was little real understanding of native belief systems. They were regarded at best as interesting, at worst as examples of heathen superstition. As noted earlier, the major concern of the first salmon ceremonies was to insure the periodic return of salmon to their accustomed spawning grounds. A theme in local Indian mythology deals with a period in the past in which malevolent individuals blocked streams to prevent the salmon coming up.

George Gibbs, in a letter to Colonel Ripley under date of July 21, 1857 described a tactic used in the recent hostilities in the Duwamish-Puyallup-Nisqually drainage areas. The following excerpt is from a draft of the letter. I have not seen the one actually sent. The deletions below are in the draft.

The Salmon is everywhere the great staple of winter provision. It ascends in vast schools all the streams far up into the mountains. During the war, Col. Casey very sagaciously ~~took advantage~~ cut off the hostile tribes from this resource by constructing weirs at the mouths of the rivers in the hostile district, and thus alarmed the most obstinate bands into submission ~~by fear of~~ to avoid starvation.

It seems more likely to me that the Indians feared a permanent destruction of the runs in those rivers, rather than any immediate problem with supplies. My reasons for this opinion lie in the ritual and mythic preoccupation with insuring that the runs continue, but other evidence would seem to support this view.

A pioneer Puyallup valley resident discussing the hostilities of October 1855 many years later, had this to say (Meeker 1905:309)

...Fish abounded in all the streams at that season of the year, and if interrupted at one place the women could find the salmon abundant elsewhere. Here was the spectacle of an army with strongholds as large as the field to be occupied, with food in all parts, even up to the most impenetrable forests of the foothills.

It is astonishing how abundant these salmon are found in the small streams and even rivulets of the headwaters of the greater rivers below....
...The food could be obtained for many months, and even a supply accumulated for the later season when the salmon would disappear from the streams. When the final end came considerable supplies were captured and destroyed, silent witnesses of the industry and determined cooperation of the women in, to them, this great struggle.

From Meeker's account it appears that there was no immediate threat of starvation. This seems to me to support the view that the Indians were concerned about longer-range effects.

The role of fishing in the native economy was more readily appreciated although the intricacies of the native exchange systems and the social role of cooperative enterprises such as reefnetting and weir construction were probably not realized. What was clear was that the Indians depended upon fishing for their livelihood and that they could not be removed from their fisheries without destroying them.

In a report dated March 4, 1854, George Gibbs made a number of suggestions and recommendations relative to the treaties to be negotiated in Washington Territory. He commented in part (Gibbs 1967:28)

To remove the Indians altogether into any one district is impracticable, for the western verge has been reached. To throw the fishing tribes of the coast back upon the interior, even were the measure possible, would destroy them;....

The contribution made by Indian fishermen to the Territorial economy was also recognized.

There was clearly misunderstanding of Indian concepts of fishing "rights" and there was evidently no perception of Indian self-regulation. It was incorrectly assumed that the Indians recognized no private rights in taking fish.

Discussion of Indian concepts of fishing "rights" requires some examination of specific localities used and gear and techniques employed as these affected the manner in which "rights" were conceived.

The fishing areas used were basically of five kinds: (1) freshwater lakes; (2) freshwater streams and creeks draining into the various inlets; (3) shallow bays and estuaries; (4) the inlets and the Sound; and (5) the straits and ocean.

Customary use rights varied according to the type of locale and the gear being used. Winter villages were located along the salmon streams, at the heads of inlets near the mouths of such streams, and on protected coves and bays. The major requirements in the location of winter villages were shelter from the elements and from surprise attack, suitable beach or bank launching canoes and for storing them above high water mark, and access to firewood, fresh water, and fishing stations.

The larger and more important villages were usually located at particularly lucrative fishing places: at the forks of a river where weirs could be set up; at the outlet of a river into a lake; and at the heads of inlets near the mouths of the salmon streams. Other large villages were located on the saltwater in protected coves and bays.

During the winter season, if people went out for fresh food stores, they used the fishing areas in closest proximity to their villages. During the spring, summer, and fall, people moved about to fish at more distant fishing grounds.

In general, I think it is correct to say that the freshwater fisheries were controlled by the locally resident population. During the winter season, the local residents were the exclusive users. At other seasons use rights at these locations and others within the territory of a particular group would be extended to visitors from other localities.

Visitors from beyond the immediate locality would arrive to take advantage of particular runs not available in their streams or not running at that particular time in their locality. Certain of these visitors would have use rights because they were related to local residents. Others might request permission to fish and such permission was normally extended provided that amicable relations existed between the local people and the visitors.

The situation with regard to saltwater fisheries appears to have been slightly more complicated. Shallow bays where salmon, flounder, and other fish were speared were often gathering places for people from a wider area. This was especially true if shellfish beds were present. In the deeper waters of the bays, huge flotillas of canoes would gather to troll for the salmon as they gathered in the bays just prior to their entry into the rivers.

Meeker (1905:64) offers a first-hand account of fishing activities at the end of May or early June in 1853

As we drew off on the tide from the mouth of the Puyallup River, numerous parties of Indians were in sight, some trolling for salmon, with a lone Indian in the bow of his canoe, others with a pole with barbs on two sides fishing for smelt, and used in place of a paddle, while again, others with nets, all leisurely pursuing their calling,...

People living upriver on a given drainage system would normally come to the saltwater areas at the mouth of the river to obtain fish and shellfish. At some of the major fishing locations, like Commencement Bay, people from other drainage systems would also congregate to join in the fishing.

The deeper saltwater areas, the Sound, the straits, and the open sea, served as public thoroughfares, and as such, were used as fishing areas by anyone travelling through such waters. However, both within the straits and off the west coast in the open sea there were halibut banks known to the Indians, used by them, and claimed as private property. Other private property rights to saltwater fisheries were recognized reefnet locations in the straits. Among the Makah, ownership of halibut banks was held in the name of the chief as steward for his local kin group and retainers. With the Lummi reefnet locations, the situation was different. Individuals owned specific locations on the reef which they received by heirship. Owners of locations then hired relatives and friends to work with them in preparing the gear and fishing the site.

Based on his observations made in the mid-1850's and apparently without knowledge of either Makah or Lummi fisheries, Gibbs (1877:186) stated

As regards the fisheries, they are held in common, and no tribe pretends to claim from another, or from individuals, seignorage for the right of taking. In fact, such a claim would be inconvenient to all parties, as the Indians move about, on the sound particularly, from one to another locality, according to the season.

As intimated by the foregoing discussion, Gibb's generalization requires modification to cover adequately a range of local situations. His characterization is acceptable if it is understood to refer to saltwater fisheries and if it is understood that certain exceptions existed, notably in the halibut, cod, and sockeye fisheries.

As regards freshwater fisheries, all subsequent information about fishing and everything else known about western Washington Indian cultures indicate clearly defined property concepts. Ownership rights to specific fishing areas were well developed; at the same time, use rights were freely granted. Gibbs' statement appears to be concerned with use rights. If so, his characterization is useful, provided that the contexts and limitations noted above are understood.

D. Indians' Fishing "Rights" among Themselves

The nature of "rights" varied from individual inheritance of privately owned sites to shared access to specific trolling areas. Such rights were respected by Indians who did not share them. The latter might ask permission to use specific locations and/or gear and this would be granted usually. Trespass was rare and usually led to friction.

E. Controls over Indian Fishing

Indian control was by accepted, customary modes of conduct rather than by formal regulations involving enforcement and sanctions. With regard to salmon, it was necessary that the first fish from the run be treated ritually. In connection with this and the restrictions on defiling the river prior to the run, Elmendorf (1960:63) commented

No special authority enforced the taboos on polluting the river prior to the beginning of the run. There was also no special "fish watcher" or ceremonial lookout for the beginning of the run, although everyone in every Twana community was on the alert for this event.

Controls over fishing were necessary in cooperative efforts which required coordination by someone who organized and directed the group effort. The construction of a weir was usually a cooperative effort, a number of men working under the direction of a leader. The entire community usually had access to the weir, the leader regulating the order of use and the times at which the weir was opened to allow upstream escapement for spawning and/or supply of upriver fishermen.

Techniques such as spearing or trolling in saltwater which involved individual effort were not regulated or controlled by anyone else.

Generally, individual Indians had primary use rights to locations in the territory where they resided and secondary use rights in the natal territory (if this was different) or in territory where they had consanguineal kin. Subject to such individual claims most groups claimed exclusive fall fishing rights in the waters near to their winter villages. Spring and summer fishing areas were often more distantly located and often were shared with other groups.

There is no evidence of any attempt by the settlers to impose regulatory controls over Indian fishing prior to, at the time of the treaty negotiations, or for some time afterwards.

There is, however, evidence of Indian refusal to permit white fishermen access to privately owned fishing areas. Michael Simmons, who helped Governor Stevens negotiate all the treaties in

western Washington, and who subsequently had an important career in the Indian Service, wrote of the Makah in his 1858 annual report as Indian Agent for Puget Sound district (Simmons 1858:583)

Four gentlemen from California, have taken claims and established a trading post and fishery at Waada. They have been there for about nine months and have uniformly treated the Indians well; bought all the fish and oil they could bring for sale, (these Indians catch many whales) at liberal prices, yet they refuse to let them fish on the banks.

F. Location of Indian Fisheries

Indian fishing was not confined to certain types of locations. The Indians developed and utilized a wide variety of fishing methods which enabled them to take fish from nearly every type of location at which fish were present. The Indians with whom we are concerned harvested fish from the high seas, inland salt waters, rivers and lakes. They took fish at river mouths as well as at accessible points or stretches along the rivers all the way to the headwaters. Some locations were more heavily utilized than others.

Although there are extensive records and oral history from which many specific fishing locations can be pinpointed, it would be impossible to compile a complete inventory of any tribe's usual and accustomed grounds and stations. Such an inventory is possible only by designating entire water systems.

There are a variety of reasons why any listing of usual and accustomed fishing sites must be incomplete and thus give a spurious kind of accuracy. First, as already noted Indian fisheries

existed at all feasible places along a given drainage system from the upper reaches of the various tributary creeks and streams, down the main river system to the saltwater. Fishing stations which were also the site of weirs and permanent villages are more easily documented through archeological evidence, historical records, and ethnographic studies than are riffles where fish were speared. The nature of the gear used has tended to influence the recording of sites.

Second, Indian fisherman, like all fishermen, shifted to those locales which seemed most productive at any given time. The productivity of local sites varied with (1) volume of water in a stream at a particular season or year, (2) amount of mud or silt present at a given time, and (3) alteration in the watercourse due to flooding, log jams, and other natural causes. The use of particular sites varied over time. There were traditional fishing locations which were used for as long as people could remember, but these were not fixed and unchanging because the watercourses themselves were not immutable and unalterable.

Third, a number of important fishing sites recorded in treaty times are no longer extant because of post-treaty man-made alterations in watersheds and water systems. Diversion of water for power purposes has lowered the carrying power of some streams and dried up others; engineering for flood control has altered the course of rivers; canal-cutting has lowered lake levels; and land fill operations have obliterated still other fishing stations. When sites are

demolished, their existence is eventually forgotten.

Fourth, other sites are still extant but are no longer used by Indian fishermen because the appropriate Indian gear for those particular sites has been outlawed by the State or because competing users, not necessarily fishermen, have made utilization of these sites by Indian fishermen unfeasible. In still other instances, extant usual and accustomed sites are no longer fished because the species taken in treaty times have been destroyed by post-treaty events. Alteration of water temperature and water level, industrial pollution, and the fencing of spawning creeks by private land owners are some of the causes.

II. Negotiation and Execution of the Treaties

A. Purpose of Treaty as a Whole

The Indians had received constant assurances from white settlers and from government representatives that they would be compensated for lands which were being settled on and for loss or destruction of native property incident to white settlement. The Indians were concerned that these things be done by mutual agreement.

George Gibbs became a key member of Governor Stevens treaty commission and helped to draft the treaties as well as to negotiate them. In a report dated March 4, 1854, Gibbs made a number of suggestions relative to the treaty negotiations which began later that year. Apparently referring to the fact that there were no outstanding unratified treaties in Washington Territory, Gibbs observed

No conventional arrangements, strictly so speaking, are known which need action on the part of the government; but the assurance has everywhere been given by the whites, settling among the Indian tribes, that Congress would compensate them for the lands taken.

The United States was concerned to extinguish Indian title to the land in Washington Territory legally, in order to forestall friction between Indians and settlers and between settlers and the government. The Act creating Oregon Territory provided that Indian land title should be extinguished by treaties. Before Indian title had been extinguished, the Donation Act had thrown open land to settlement and induced non-Indians to migrate and take up land claims. This state of affairs concerned the new Governor of Washington Territory and his attitude was shared by the Commissioner of Indian

Affairs, George W. Manypenny, who wrote to Stevens under date of April 11, 1851

With you, I feel anxious that Congress should immediately make provision for extinguishing the Indian title to lands in Washington Territory.

Further, until treaties were concluded and reservations were established, it was impossible to enforce the trade and intercourse laws regulating traffic in liquor and commercial relations in Indian country.

B. Meaning of "The right of taking fish, at all usual and accustomed grounds and stations, is further secured"

Apparently this language originated with George Gibbs, who drafted the treaties in western Washington, although the suggestion itself was made earlier by at least one other party.

In a report submitted in 1853, E. A. Starling, Indian agent for Puget Sound offered the following suggestions (underlining mine)

I would recommend that, when treaties are made with these tribes, their future homes be all included in one reservation--each tribe having the extent of its reservation marked off--and their fishing grounds be granted them; and over the reservation, that the law regulating trade and intercourse with the Indians, and any other law relating thereto, be extended with full force.

There is no record of the Chinook jargon phrase actually used in the treaty negotiation. In my opinion, it would have been possible to convey the meaning of the above language adequately through the medium of Chinook jargon. The English word fish is "pisk" in Chinook jargon. Presumably this generic term was used in the treaty talks and it is likely that it would have been understood by the Indians in the same sense as the whites.

There is no mention of restrictions as to purpose, time, or method of taking either in the treaties themselves or in the official records relating to treaty proceedings. It is my opinion that no such restrictions were indicated by the commissioners or contemplated by the Indians. The treaty commissioners knew that fish were important to the Indians, not only from the standpoint of their food supply and culture but also as a significant element of trade with the settlers. Both parties wanted these aspects to continue -- the Indians in order to sustain their prosperity and the government in order to promote the prosperity of the Territory. I believe that both parties intended the Indians to continue full use of their fishing places, even though most lands adjacent to fishing waters were ceded.

C. Meaning of "in common with all citizens of the Territory"

This language appears to have been introduced by Gibbs. There is no record of the Chinook jargon translation which was used in the treaty negotiations. There is nothing in the official record to suggest that the U. S. intended "in common" to connote future control by "citizens" over Indians. It is my opinion, based partly on evidence in the official record and partly on inference from ethnographic data, that at least some of the Indian parties expected to exercise control over "citizens" fishing at usual and accustomed Indian fishing sites.

There is no clear evidence as to whether "in common" was intended to connote fishing at the same place, or on the same run, or at the same place on the same run, or something else. Stevens

asserted that Indian and non-Indians fishing techniques were so different as to preclude competition, but this information was incorrect.

In a letter to George W. Manypenny, Commissioner of Indian Affairs dated December 30, 1854, transmitting the Treaty of Medicine Creek, Governor Stevens commented on the treaty provision regarding the taking of fish as follows

It may be here observed that their mode of taking fish differs so essentially from that of the whites that it will not interfere with the latter. They catch salmon with spears in deep water and not with seines or weirs.

The Puyallup Indians who were party to the Treaty of Medicine Creek were using both seines and weirs extensively at the time that Stevens wrote and had been doing so for some years previous. I am unable to account for his assertion that the Indians did not use seines or weirs. I suppose it is possible that Governor Stevens was ignorant of the facts, although it is hard to credit this. The other members of the treaty commission were certainly aware of Indian methods of taking fish and according to the official treaty notes the subject of Indian fisheries was thoroughly discussed by Stevens, Doty, Simmons, Shaw, and Gibbs prior to the Treaty of Medicine Creek.

In my view, the most likely Indian interpretation of the "in common" language would be that non-Indians were to be allowed to fish without interfering with continued pursuit of traditional Indian fishing. I think it most likely that the government intended to provide for non-Indian participation in fishing with no thought that this would require any restriction of Indian fishing.

D. Signing the Treaties

Generally, Indian signatories were individuals who had some sort of friendly contact with non-Indians. A few spoke Chinook jargon and probably most were men of importance in their communities, although they were not necessarily the most important men. The "head chiefs" were chosen by Simmons and Stevens. The "sub-chiefs" and "leading men" were selected by Simmons and Stevens, sometimes with the aid of the "head chiefs". The basis for choice were friendliness to Americans, real or apparent status in their communities, and ability to communicate in Chinook jargon. The "sub-chiefs" and "leading men" were intended by the U. S. to represent the bands to which they were thought to belong. Various "bands" and "fragments of tribes" were arbitrarily assigned a subordinate status to other "tribes", each of which had been assigned a "head chief". The latter were taken to represent not only the group to which they belonged, but all other groups which had been declared subordinate to it. The signatories, in the U. S. view, had the capacity to alienate land belonging to such groups. On the Indian side, there was no precedent for signing legal documents, nor was there any culturally sanctioned method of formally alienating land.

E. Communication

It is hazardous to judge the extent of communication of either specific terms or of underlying purposes and effect without a transcript of the actual Chinook jargon used to interpret the treaties. We have no knowledge that any Indian present at any of the treaties

understood English. It is a matter of record that many, if not most of those present, did not even understand Chinook jargon. It is also a matter of record that the official interpreter, Shaw, spoke no Indian language and had to use Chinook jargon to interpret the treaties, which were then re-interpreted into the various Indian languages by Indians who understood the jargon. The double translation resulted in the Indians receiving the information at third hand and increased the potential for confusion.

Chinook jargon, a trade medium of limited vocabulary and simple grammar, is inadequate to express precisely the legal language embodied in the treaties. Its inadequacy was commented upon by both Indians and non-Indian witnesses to the treaty negotiati

The views of Leschi, one of the Nisqually chiefs who repudiated the treaty, are set out in a letter from Dr. William F. Tolmie of the Puget Sound Agricultural Company at Fort Nisqually to Fayette McMullen, Governor of Washington Territory dated January 12, 1858. Dr. Tolmie referred to a trip Leschi had made in spring 1855 to search out a young relative of his who had been taken to Oregon in 1849 by the Indian agent of that time, Mr. Thornton. In the following excerpt from Tolmie's letter, I have supplied the underlining

Leschi has lately informed me and his statement is corroborated by others that he wanted his cousin from Albany to be interpreter for the Nisqually tribe, as in dealing with the whites on such momentous affairs as the sale of their lands he felt the great disadvantage the Indians labor under, in having no better medium of communication than the Chenook Jargon. Finding however, that his cousin had forgotten the Nisqually language, he did not urge his return.

III. Current Successors to Treaty Tribes

The following are my conclusions regarding those tribes to which I have been asked to direct my attention. The fisheries listed in this summary are not to be taken as the only important fisheries of each group.

Conclusions Based on Available Documents and Ethnographic Data

A. Makah

1. The Makah Indian Tribe is composed primarily of descendants of the 1855 villages of Neah, Waatch, Tsoo-yess, and Osett.
2. The above-named villages are named in the preamble to the Treaty with the Makah, January 31, 1855 and at least four signatories are identified with each village separately.
3. The principal salmon fisheries of the Makah included Ozette Lake, all the salmon streams from Ozette River north along the Pacific coast and east along the Strait to the Lyre River in Clallam territory and adjacent saltwater areas.
4. At treaty times and in the decades immediately preceding and subsequent to the treaty, the Makah engaged in extensive trade based on a commercial maritime economy.
5. Governor Stevens appreciated the commercial nature and value of the Makah marine hunting and fishing economy and at the treaty assured the Makah of government aid in developing these pursuits.

6. Cultural differences prevented the Stevens party from fully comprehending the property rights which the Makah asserted when they signed the Treaty. The Makah understood the Treaty in one way; the whites understood it in another.
7. Although salmon were less important to the Makah as a food staple in treaty times than halibut, salmon was a vital component in the native diet. In addition to providing variety in the food fare, preserved fall salmon was vital in securing provender in the winter when it was too rough for outside fishing.
8. Post-treaty events and developments beyond Makah control have altered the relative importance of the various Makah fisheries. One consequence has been to increase the importance to the Makah of their salmon fisheries.

B. Quileute

1. The Quileute Tribe of Indians is composed primarily of descendants of the Quil-leh-ute and other bands of Indians residing on the watershed of the Quileute and Hoh River systems.
2. The Quil-leh-ute (including the Hoh) were included in the Treaty of Olympia, July 1, 1855 and are mentioned by name in the preamble. At least one signatory is identified on the treaty as Quilley-hute.
3. The principal fisheries of the Quil-leh-ute were Ozette Lake, Lake Dickey, the Dickey River, Quileute River, Hoh River,

and their tributaries, as well as the saltwater adjacent to their territory.

4. The Quileute were primarily dependent on salmon for their staple food. When the salmon supply failed, either through occasional small runs or through swollen rivers making it difficult for the Indians to take them, people starved.

C. Hoh

1. The Hoh Tribe or Band of Indians is composed primarily of descendants of the Hoh, an 1855 geographical division of the Quileutes.
2. The Hoh were included as a band of the Quil-leh-ute in the Treaty of Olympia, July 1, 1855.
3. The principal fisheries of the Hoh branch of the Quileute were on the Hoh River from its upper reaches to its mouth and on the tributaries thereto. The saltwater fisheries were in the area adjacent to Hoh territory.
4. The Hoh were primarily dependent on salmon for their staple food. Although they had a summer troll fishery in the coastal water, they relied on the fall runs in the river for their winter stores. The upriver fisheries were of strategic importance. The bulk of the fall salmon were taken by means of weirs set in the river.
5. The Hoh Indian Reservation was established in order to enable this branch of the Quileute Tribe to remain at their valuable fisheries.

D. Skokomish

1. The Skokomish Tribe of Indians is composed primarily of descendants of the Skokomish and To-an-ooch who lived in the drainage area of Hood Canal.
2. The above two groups were named in the preamble of the Treaty of Point-No-Point, January 26, 1855. Five signatories are identified as Skokomish on that document.
3. The principal fisheries of the Skokomish before, during, and after treaty times included all the waterways draining into Hood's Canal and the Canal itself.
4. Salmon was the most important source of food for the Skokomish. Four species of salmon as well as steelhead were taken in the rivers, eaten fresh and dried for winter use. Saltwater trolling and spearing was less important than river fisheries:
5. The bulk of the stream fish were taken by means of weirs. At least one of the Skokomish signers to the Treaty of Point-No-Point was the supervisor of an important weir on the Skokomish River.
6. One of the Skokomish signatories to the Treaty of Point-No-Point was the supervisor of an important Skokomish weir in the Skokomish River.

E. Squaxin

1. The present day "Squaxin Tribe of Indians" is composed primarily of descendants of the original inhabitants of all the inlets of upper Puget Sound from South Bay on Henderson inlet, around the head of the Sound to North Bay

on Case Inlet. Included are: Henderson, Budd, Eld, Totten (including Big and Little Skookum), Hammersley, and Case Inlets.

- 2. The Indian inhabitants of the above inlets were listed separately by local group name in the preamble to the Treaty of Medicine Creek and were included along with the Puyallup, Nisqually, and other groups in that treaty. The following names are extracted from the longer series in the preamble to the Treaty of Medicine Creek. I have added the appropriate inlet location for each named group.

Group name as it appears in treaty	Inlet location
Squawksin	Case
Steh-chass	Budd
T'Peeksin	Totten
Squi-aitl	Eld
Se-heh-wamish	Hammersley.

- 3. The Indians residing on the various inlets of upper Puget Sound were placed on the Squaxin Island Reservation in 1855 and thereafter were known collectively as "Squaxin" Indians and were dealt with by the United States as a separate and collective entity.
- 4. The ancestors of the present "Squaxin Tribe of Indians" were included in the Treaty of Medicine Creek and the United States has always recognized and treated the amalgamated "Squaxin" as a Medicine Creek Treaty tribe.

5. "Squaxin" tribal members today do not reside on the Squaxin Island Reservation, but rather in the localities where their ancestors lived in aboriginal times on the various inlets of upper Puget Sound, often in close proximity to the old village sites.
6. Ancestors of the present "Squaxin" Indians fished the entire area of upper Puget Sound including all the creeks and streams draining into the head of the Sound as well as the saltwater estuaries and bays and the open saltwater.
7. Prior to the 1854 Treaty of Medicine Creek, salmon played a vital role in the economic, social, and religious life of the Indians of upper Puget Sound.
8. Salmon continue to be important to the "Squaxin" as evidenced by continued fishing activity, building of smoke-houses, and preservation of salmon by traditional curing techniques.

F. Nisqually

1. The Nisqually Indian Community of the Nisqually Reservation is composed primarily of descendants of the Nisqually and neighboring other Indians, including the Steilacoom, living near the Nisqually River in 1854.
2. The Nisqually and Steilacoom are mentioned by name in the preamble to the Treaty of Medicine Creek, December 26, 1854. None of the signatories to that treaty is identified as to tribe or band, but several of the men whose names appear as signatories can be identified as Nisqually through other historical documents.

3. The Indians who were assigned to the Nisqually Reservation, including the Steilacoom, were thereafter known as Nisqually Indians and were dealt with by the United States as a separate and collective entity.
4. The principal fisheries of the Nisqually Indians included the Nisqually River and its tributaries, as well as the numerous lakes in the area occupied by the Nisqually and Steilacoom. Although some of the principal villages at the time of the treaty were located upriver at the junction of various creeks with the Nisqually River, saltwater fisheries were also utilized.
5. Salmon was the most important single food of the Nisqually. In addition, salmon played a central role in the ceremonial and religious life of these Indians.
6. Salmon continued to be important to the Nisqually as evidenced by continued fishing activity.

G. Puyallup

1. The Puyallup Tribe is composed of descendants of the 1854 Puyallup of the Puyallup River, the Homamish of Vashon Island, and other neighboring Indians, as well as non-Indians who became Puyallup through intermarriage.
2. The population of the Puyallup River villages and the Vashon Island Puyallup at the time of the Treaty of Medicine Creek was estimated to be about 150 people, but very likely the actual number was greater.

3. The Puyallup and the Homamish are named in the preamble to the Treaty of Medicine Creek, December 26, 1854. None of the signatories to that treaty is identified as to tribe, band, or village affiliation.
4. The principal fisheries of the Puyallup were in Commencement Bay and the adjacent saltwater areas of Puget Sound and along the Puyallup River and its tributaries.
5. Salmon was the most important single food for the Puyallup. Four species of salmon as well as steelhead were eaten fresh, smoked, dried, and smoked-and-dried.
6. Salmon were taken in the saltwater by trolling, spearing, and with a seine. In the rivers the principal methods were weirs, traps, spearing, gaffing, and netting either with lift nets or river seines.
7. The reason for the location and size of the original Puyallup Reservation was to locate the Indians where they would have immediate access to both their saltwater fisheries and a stream which was a traditional fall salmon fishery. The small size of the original reservation as well as its difficult terrain were considered unimportant by the United States' representatives because the Indians were primarily fishermen.

H. Muckleshoot

1. The Muckleshoot Indian Tribe is composed primarily of descendants of the Skopamish, Stkamish, and Smulkamish bands who lived in the Green River-White River area in 1855.

2. The three above named bands are listed in the preamble to the Treaty of Point Elliott, January 22, 1855. Chief Seattle signed for these bands on that treaty.
3. The principal fisheries of the ancestors of the Mucklerhoot both prior to and during treaty times included Green River, White River, Stuck River, Cedar River, and tributary creeks.

I. The Stillaguamish Tribe of Indians

1. The Stillaguamish Tribe of Indians is composed primarily of descendants of the Stoluckwamish and other Indians living on or near the Stillaguamish River in 1855.
2. The Stoluckwamish are named in the preamble to the Treaty of Point Elliott, January 22, 1855. They were signed for by Patkanam who was designated head-chief to represent them as well as other Indians at the treaty.
3. The principal fisheries of the Stoluckwamish were located on the Stillaguamish River system from its upper reaches to the mouth.

J. The Sauk-Suiattle Indian Tribe

1. The Sauk-Suiattle Indian Tribe is composed primarily of descendants of the Sakhumehu and other Indians who lived on the upper tributaries of the Skagit River in 1855.
2. The Sakhumehu are named in the preamble to the Treaty of Point Elliott, January 22, 1855. One of the signatories is identified as "Sakhumchu" on that document.
3. The principal fisheries of the Sakhumehu were the headwaters of Skagit River including Baker River, Sauk River and the smaller creeks which belonged to that water system.

K. Lummi

1. The Lummi Indian Tribe is composed primarily of descendants of Indians who in 1855 were known as Lummi or Nook-Lummi and who lived in the area of Bellingham Bay and near the mouths of the river emptying into it.
2. The Lummi were party to the Treaty of Point Elliott, January 22, 1855. Fourteen signatories to that document are identified as Lummi.
3. The principal fisheries of the Lummi included reef-net locations for sockeye at Point Roberts, Village Point, off the east coast of San Juan Island as well as other locations in the San Juan Islands. Other fisheries included Bellingham Bay and the surrounding saltwater areas. The Lummi had important freshwater fisheries on the river system draining into Bellingham Bay.
4. Several Lummi signatories to the Treaty of Point Elliott were owners of valuable reefnet locations near Point Roberts

IV. Post-treaty Actions

- A. Comparison of Current Function of Fishing in Indian Life with Same at Treaty Time

Western Washington Indians appear to have discontinued most outward religious forms such as the first-salmon ceremony and some associated beliefs, while retaining other beliefs and certain traditional attitudes and feelings regarding salmon and their environment. An analogy might be drawn with those Christians who do not attend church or pray, but who nonetheless feel bound to the Christian faith

and whose lives are much influenced by it. It is clear that many Indians continue to regard salmon in a light which is quite different from that of non-Indians.

Trade in fish was a vital component of aboriginal life in western Washington. During the 1850's, 1860's, and 1870's, Indian fishing and Indian trade in fish formed an integral part of the pioneer economy. As non-Indians began to compete in the fisheries, laws and regulations were promulgated which made it increasingly difficult for Indians to participate as entrepreneurs or even as fishermen. As they have been forced out of the fisheries, fewer Indians and smaller quantities of fish are involved.

For many Indians, fish continue to provide a vital component in their diet. For others, fish is not a necessary dietary item although it remains an important food in a symbolic sense. (Thanksgiving turkey is not essential for physical survival, but contributes to our spiritual well-being because it provides an emotional link with our past.) Few habits of human beings are stronger than dietary habits and their persistence is usually a matter of emotional preference rather than nutritional need. For many Indians, salmon remains important in an economic, nutritional, and symbolic sense.

Historically and to the present day, taking, preparing, eating and trading fish have been important functions in Indian communities. As such, fishing provides a basis for cultural identity and a cohesive force in Indian society.

Traditional Indian fishing methods were highly efficient. These methods survived where Indians were allowed to maintain them; that is, where they were not outlawed or where Indians were not

prevented access to areas where the methods were feasible. When necessary, or appropriate, Indians have adopted new techniques and gear. Indians no longer fish from dugouts, just as non-Indians no longer fish from wooden sailboats. Indians no longer use bark nets and whites no longer use cotton or linen nets.

Indians of western Washington continue to fish for most of the species for which they have always fished. A few are no longer utilized because they are now rare (e.g., eulachon) or because they are no longer in demand (e.g., dogfish for oil). Salmon and halibut remain today, as in pre-European times, the fish of major interest both for consumption and for exchange.

B. Tribal Identity

Continued existence of viable Indian communities, "tribes", "bands", and so on, is not dependent upon nor coterminous with federal recognition. There may be biological, cultural, and geographic continuity since pre-treaty times, as in the case of the Sauk-Suiatt; for example, without federal recognition.

Continuing Indian identity is evidenced by (a) overt traits of aboriginal Indian culture which continue into the present (e.g., language, food preservation methods, games such as lahal, the "bone game", winter dances with the associated spiritual beliefs, art forms, kinship and social links); (b) aboriginal forms which have been melded with introduced ideas to create new, but uniquely Indian features (e.g., the Shaker Church, Indian sweaters, and the modern invention, the Coast Salish spinning device); and (c) persistence of traditional knowledge and belief in the importance of that

knowledge (e.g., community histories, location of fishing sites, myths, tales, and songs). This knowledge is as relevant to Indian identity as the knowledge of American history is to the "Americanism" of all of us.

C. Attitudes Toward Rights and Powers Secured and Established by the Treaties within the 25 Years Post-Treaty

Throughout the area Indians consistently attempted to assert their treaty protected fishing rights as evidenced by efforts to maintain control of their fishing sites and by litigation concerning these issues. Non-Indian activity over the years has served to erode the value of Indian fisheries. River fisheries have been destroyed because of power development and use of rivers for navigation and transport. In-shore fisheries have been destroyed through building of breakwaters and harbor development. In addition, these and off-shore fisheries have been depleted by over-fishing by non-Indians. These activities evidence an unawareness of or lack of concern with treaty provisions. In the first two decades after the treaty making, the Indians were able to enjoy their treaty-protected fishing rights without much difficulty. Later, the State actively opposed treaty fishing provisions and sought to curtail Indian rights for the benefit of non-Indian citizens.

V. Specific Conclusions

A. Interpreting the Treaty

It was the clear and unequivocal intent and understanding on the part of both Indians and whites at the treaty-signing that the reservations were to be residential bases from which the Indians were

to continue to utilize the total environment, including specifically all of their fishing locations, in order to maintain themselves and to contribute to the economy of the entire population. Also it was clear that there was no intention of creating a class society with Indians on the bottom economic rung. The treaty commission clearly undertook to provide the Indians the means of participating and prospering in the economy of the Territory. The contribution was seen to be primarily in the fisheries. Indian understandings were similar.

No post-treaty regulations as to time, place, manner or purpose of their taking fish were anticipated by the Indians, nor is it likely that this was envisaged by the treaty commission. Indians did not anticipate a requirement that they permit non-Indians to fish at their usual and accustomed places, such as weirs, reef-net locations, and privately-owned halibut banks, while the Indians fished there. The "in common with" language must have been understood and intended by both parties to assure non-Indians an opportunity to engage in fishing, but not at the expense of existing Indian claims and rights. Undoubtedly the Indians understood that the non-Indians would share access to saltwater seine and troll fisheries. Indians had no reason to expect that it would become necessary for the State to limit non-Indians' harvest to provide an Indian harvest.

The very fact that the United States made treaties indicates that the federal government was concerned to integrate Indians into the new order by peaceful and legal means. Legal recognition of pre-existing Indian tenure and use rights is evidenced in the alienation of Indian lands by treaty-arranged compensation. Indian fishing rights were specifically exempted from such alienation, and this is further attested by the fact that no compensation was arranged for their extinguishment.

In my opinion, the "in common" language was intended to allow non-Indians to fish subject to prior Indian rights specifically assured by treaty.

C O N T E N T S

Summary

- Makah Economy Circa 1855 and the Makah Treaty--A Cultural Analysis**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Quileute and Hoh Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Skokomish Tribe of Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Squaxin Tribe of Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Nisqually Tribe of Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Puyallup Tribe of Indians**
- Anthropological Report on the Identity and Treaty Status of the Muckleshoot Indians**
- Anthropological Report on the Traditional Fisheries of the Muckleshoot Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Stillaguamish Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Sauk-Suiattle Tribe of Indians**
- Anthropological Report on the Identity, Treaty Status and Fisheries of the Lummi Tribe of Indians**

