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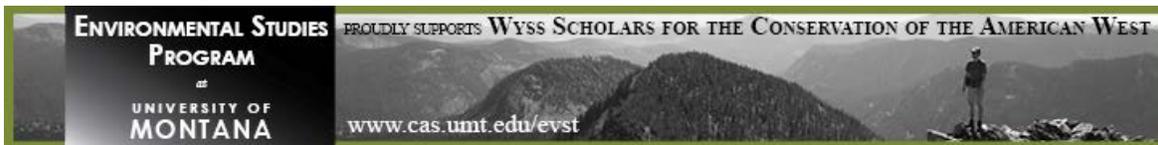
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Boldt ruling to let Natives manage fisheries is still vastly influential, 40 years later

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Christi Turner | Feb 14, 2014 05:00 AM

The Boldt Decision turned 40 this week, marking four decades since tribes of the Pacific Northwest were granted a 50-50 share of salmon and steelhead fisheries and co-manager status over their natural resources. Just this week, Washington state [legislators](#) are expected to decide on [a bill](#) that would [pardon](#) the dozens of activists arrested in the 1960s "fish wars" protests that led to that monumental court decision.



The two-part decision was handed down in 1974 by Judge George Hugo Boldt in *U.S. v. Washington*, a watershed moment in Native American rights law that laid the groundwork for Native American law across the U.S. and up to the present day.

"It was the Boldt Decision that was the lightning strike," said Western historian and Native American law expert at the University of Colorado Boulder, Charles Wilkinson, who is now writing a book on the decision's history and legacy. "It wasn't just getting a fair share of the fish, but they had the right to act as sovereigns. These tribes really did not have working governments, certainly as far as the outside world was concerned. Afterward they set up courts, environmental codes and crack scientific operations – it gave them confidence."

The decision allowed tribes to work hand-in-hand with the state to co-manage all fishing resources, including those outside of reservations. This became particularly important after fish stocks suffered major collapses in the 1980s, and

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both Indian and state managers focused on the need to protect fish habitat and support long-term recovery of the once vital fisheries. The Boldt Decision also spurred the creation of the [Northwest Indian Fisheries Commission](#), which supports its 20 member tribes in this role as natural resource co-managers.



14, Wash., Feb. 6—INDIANS GILL FISH—Bill Frank into an open box Wednesday after a day of fishi River near Franke landing, north of Olympia. Th gillnet at three locations along the river dec ests and legal battles with the Washington State



Billy Frank Jr. was a leading figure in the 'fish war' years, as pictured left. Pictured right more recently, as the director of the Northwest Indians Fisheries Commission. Photographs courtesy of NWIFC and Debby Preston.

Co-management is now firmly established, but in its day Boldt's ruling was so shocking to non-Native American fishermen that angry protestors branded Boldt a traitor and publically burned his effigy. For Boldt, a political conservative and a fishermen himself, the ruling was simply a strict interpretation of a critical phrase in the 1850s-era treaties that Isaac Stevens, then governor of the Washington Territory, had negotiated with the region's tribes: "The right of taking fish...is further secured to said Indians, *in common with* all citizens of the territory." Boldt interpreted "in common with" to mean a right to half of the harvestable catch – a right that had been systematically denied to the tribes for over a century.

The lasting importance of the Boldt ruling is vast. The so-called "[Culverts Case](#)" – filed in 2001 and decided in 2013 – is one of many contemporary cases linked directly to the Boldt. A Washington court [ordered](#) the state to repair more than 600 culverts under roads that block the passage of salmon through hundreds of miles of potential habitat, thus violating those same 1850s-era treaty rights. Yet the state has appealed the decision, to the dismay of Northwest Indian Fisheries Commission chairman and "fish wars" forerunner [Billy Frank Jr.](#), who called the appeal a disappointment. The appeal argument is set to be heard in court in the fall.



A display at the Boldt 40 gathering highlights the history of major cases in Native American law, ever since Boldt. Photo courtesy of NWIFC and Debby Preston.

But beyond its impact on fisheries and natural resource management, the principle of state-Indian cooperation that underlies the Boldt Decision has set a national precedent that has informed more than 100 Indian law cases in the Supreme Court alone and countless cases in state courts, touching everything from [land sale](#) to [child custody](#) issues. It has even laid the groundwork for major legislation like the 1988 Indian Gaming Regulatory Act, which enabled tribes to build casinos and raise capital to fund their governments. The effects of that act have dramatically increased tribal sovereignty across the U.S., and may not have been possible without the state-to-Indian government cooperation established in the Boldt

Decision.

Wilkinson said that ever since *U.S. v. Washington*, at a time when his own career as a Native

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American rights lawyer was beginning, “the tribes are vigorous, robust governments, and taking actions under their sovereignty, which still conflicts with state sovereignty with some regularity,” and the Boldt Decision continues to allow for these conflicts to be addressed in court.

At “Boldt 40: A Day of Perspectives on the Boldt Decision,” a gathering of more than 800 activists, tribal members and supporters last week in Olympia, Wa., Wilkinson expressed hope that the next generation will continue to fight challenges to sovereignty. Addressing the many young Native Americans at the gathering, he said the Boldt Decision was one of the best examples “of what America and its citizens can accomplish in the name of justice for dispossessed peoples... Your forebears passed on the Boldt Decision to you. Now you can preserve and enrich it.”

While critics still exist, by and large Americans have come to see Judge Boldt, the Boldt Decision and its 40-year wake in a positive light. Passing the new bill to pardon those who were prosecuted before the wave of change crested in 1974 would be a fitting testament to their legacy.

Christi Turner is an editorial intern at High Country News. She tweets @christi_mada. Correction: The original version of this story incorrectly stated that Charles Wilkinson assisted an attorney in the U.S. v. Washington case, but he did not.



Charles Wilkinson is a Native American rights lawyer, Western historian and professor at the University of Colorado Wolf Law School. (Photo courtesy of CU Boulder)

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