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Landmark salmon decision left a legacy of science

By Bill Sheets, Herald Writer



Dan Bates / Herald file photo

Stan Jones scans Tulalip Bay outside the old tribal center and longhouse in April 2010.

TULALIP — Before the landmark **Boldt decision in 1974**, tribal anglers had fished alongside non-Indian fishermen for years.

Tulalip tribal leader Stan Jones said he counted many of those fishermen among his friends.

“Once we started lobbying for the tribal fishing rights, they turned against us,” Jones wrote in his 2010 book, **“Our Way: Hoy yud dud.”**

“I had a non-Native fisherman break my window out of my boat with a machete, where glass flew in on my wife JoAnn while she was in the bunk.”

Forty years ago Wednesday, federal Judge George Boldt ruled that an original treaty clause — which said tribes could take fish “in common with” non-Indians — meant that tribes were entitled to a 50-50 split.

The decision pitted American Indian and non-Indian anglers, particularly commercial fishermen, at the time, and made for tense relationships for years to come.

On the other hand, the ruling forced tribes and the state to develop new methods for counting, monitoring and managing fish, said Ray Fryberg, Tulalip cultural and natural resources director.

In the early 1970s, Fryberg was in his early 20s, working for the tribal fishery. As he took on more responsibility, he participated in the scientific makeover of fisheries

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management.

As time went on, tensions eased and the state and tribes have been using those methods to work together to try to save declining salmon runs, Fryberg said.

"It took a lot of effort to focus on co-management," he said. "We said, 'Let's not focus on negative energy, let's get together and focus our energy on good things for salmon management and resources and the environment.'"

Despite the fading of ill will, not everyone is a fan of the Boldt decision.

On the anniversary of the ruling, "I will fly my flag at half-mast because that's when I became a second-class citizen," said Bob Heirman, of Snohomish, secretary treasurer of the **Snohomish Sportsmen's Club**.

Heirman, 81, said he harbors no hard feelings toward the tribes. He applauds them for their environmental work. He simply believes the Boldt decision was impractical from the beginning.

"It doesn't work," he said. "It never did work. If you can divide the fish in the ocean, you're really good. Only God can divide them."

While the catch proportion can fluctuate wildly, it can be roughly measured and tends to even out over time, said Pat Pottillo, a special assistant to the director of the **state Department of Fish and Wildlife**.

In the years after Boldt, the state and tribes had to first agree on how many fish were present to help determine catch percentages, he said. Pottillo started working for the department in 1978, tagging fish in the Skykomish River, he said.

The parties had to agree on run sizes and spawning rates, among other factors, to arrive at harvestable numbers of fish, Pottillo said.

"The changes were coming fast," he said. "We fought over that stuff regularly."

The Boldt decision led to the **Puget Sound Salmon Management Plan**, a blueprint for managing fish stocks. The Department of Fish and Wildlife staff grew, with inspectors, scientists and others jokingly called "Boldt babies," Pottillo said.

In the 1970s and early '80s, most of the fish taken by non-Indians in Puget Sound were caught by commercial boats, he said. Enforcement was based in large part on field checks of commercial and tribal operations.

Now, commercial fisheries have mostly left Puget Sound for the open

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Ordinary people who rose to the occasion

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Booty Busting

Bootcamp

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ocean and the issue is tribal catch versus sport takes, Pottillo said.

With reduced staff levels at the state, the emphasis has shifted to the honor system of reporting, both for tribes and recreational anglers, he said.

Having it come out to 50-50 is a tough thing to happen consistently, but localized seasons, openings and closures are used to help balance it out, Pottillo said.

There's still some distrust and suspicion between tribal and sport anglers, he said, with each believing the other is underreporting.

Regarding complaints directed at tribes, he said, "I hear it more from individuals and not organized groups."

Whatever annoyance may remain is nothing compared to the 1970s. In confrontations on the Nisqually and other rivers in south Puget Sound, shots were sometimes fired.

In the years after the decision, Jones wrote, commercial fishermen retaliated by setting their nets close to tribal boats to catch the fish first.

"It escalated to our nets getting run over, fights breaking out and people started to carry guns," he wrote.

After the decision, more court battles ensued over details of how to implement the ruling, said Mason Morriset, a Seattle attorney who represented the tribes at the time and now handles treaty issues for the Tulalips.

"Stan Jones and Bernie Gobin," a Tulalip fisherman and tribal leader who died in 2009, "were really major to that effort," Morriset said. "They helped keep everyone marching the same direction."

The Tulalips also were instrumental in getting the ruling applied to shellfish, he said.

Fryberg, now 63, said he met Boldt at a meeting in the years after the decision. Boldt died in 1984.

He recalls that Boldt told him, "I prayed and I prayed and I prayed that I would make the right decision."

"I thought that was really admirable," Fryberg said.

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HappyClam · 7 hours ago

I wish we could see true catch numbers and abuses by both sides. That would help even things out. I have seen much more abuse by tribal fisherman than sport fisherman though. I don't even bother fishing for salmon much anymore. My crab catch has been seriously impacted by tribal and commercial pots too. Push them all to the ocean and leave the Puget Sound to the sport fisherman. reduce the total catch limits too. Some of us still fish the ocean, but many fish just the Puget Sound.

6 · Reply · Share ›



J P · 9 hours ago

As a Sportsman, I can't remember the last time I or any of my Brethren, corked off the mouth of a Puget Sound river with a bunch of nets.

OH YA, that would be never!

The Sportsman don't get squat once the Tribes are done.

Nor have we ever done this with our harvest:

<http://www.kirotv.com/videos/o...>

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VoodooEconomics >J P · 7 hours ago

No your brethren just corked off the sound for pinks last year from muc to whidbey. Oh yea, how about the chum fishery? Good old brethren love to sell that roe?

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norm nunnally · 6 hours ago

Judges who legislate from the bench have never made good policy, just good jokes(most of those are at the expense of the citizens).

4 · Reply · Share ›



sickofitOK? · 8 hours ago

the "science" involves the tribes abusing the fishery, and

whining about restoring habitat while cars, campers, and boats leak oil into Puget Sound on the reservations - the tribes aren't a bunch of nature loving environmentalists, they soil the trubitaries that run thru reservations and grab everything they can get - when was the last Herald expose about the Indian fisherman underreporting his catch? Whats happened to the fishery since the Boldt decision?

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VoodooEconomics >sickofitOK? • 7 hours ago

I think there are a few more cars off rez that leak more oil. Ever check your vehicle?

1 • Reply • Share ›



Mike • 6 hours ago

40 years later, billions spent on saving salmon and what do we have? Wild steelhead and salmon runs are more endangered than ever. Hatcheries have been cut, restoration projects have been done, logging has been curtailed, EPA rules strengthened etc. and yet we lose ground on these runs.

I will applaud the Tulalip tribe but I have serious concerns about many other tribes fishing practices. The Tulalips have practiced good management on their rivers and it shows.

Completely closing off terminal areas of rivers at the peak of spawning runs is not really smart conservation practice and it should be ended where it occurs.

2 • Reply • Share ›



norm nunnally • 38 minutes ago

I wonder where the tribes sit now that the potential for Arsenic and lead contamination of the soon to be flooded Smith Island will potentially decimate any hopes for increasing the Salmon production of that 442 acres?

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