



Northwest Indian Fisheries Commission

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**TESTIMONY OF EDWARD JOHNSTONE, TREASURER
NORTHWEST INDIAN FISHERIES COMMISSION
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON
COMMERCE, JUSTICE, SCIENCE AND RELATED AGENCIES
ON THE FISCAL YEAR 2014 BUDGET FOR THE
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION
March 21, 2013**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide testimony on the Department of Commerce Fiscal Year (FY) 2014 appropriations. My name is Edward Johnstone and I am the Treasurer of the Northwest Indian Fisheries Commission (NWIFC). The NWIFC is comprised of the twenty tribes that are party to the *United States v. Washington*¹ (*U.S. v. Washington*). We support funding for the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) and National Ocean Service (NOS) and identify four specific funding requests.

SUMMARY OF FY 2014 APPROPRIATIONS REQUEST

NWIFC Funding Requests:

- ❑ **\$110 million for the Pacific Coastal Salmon Recovery Fund (NOAA/National Marine Fisheries Service)**
- ❑ **\$7.859 million for the Pacific Salmon Treaty and the Additional \$3.0 million for the 2008 Chinook Salmon Agreement (NOAA/National Marine Fisheries Service)**
- ❑ **\$15.9 million for the Mitchell Act Hatchery Program (NOAA/National Marine Fisheries Service)**
- ❑ **\$20 million for the Regional Ocean Partnership Grants Program (NOAA/National Ocean Service)**

The NWIFC also supports the budget priorities and funding requests of the National Congress of American Indians.

Last year we brought to your attention an initiative that we have been pursuing – our Treaty Rights at Risk (TRAR) initiative. The treaty rights of the western Washington treaty tribes are in imminent danger. Specifically, the treaty-reserved right to harvest salmon is at risk. The danger exists due to diminishing salmon populations, which limits or eliminates our right to harvest. All of this is due to the inability to restore salmon habitat faster than it is being destroyed. Wild salmon and their habitat continue to decline despite massive reductions in harvest and a significant investment in habitat restoration.

¹ *United States v. Washington*, Boldt Decision (1974) reaffirmed Western Washington Tribes' treaty fishing rights.

Nearshore marine habitat is being lost, forests are disappearing, and water quality and quantity are declining throughout the Pacific Northwest. That is why we have asked the federal government to take charge of salmon recovery because it has the obligation and authority to ensure both the recovery of salmon and to protect tribal treaty rights. We have requested the federal government implement their fiduciary duties by better protecting salmon habitat. The federal government has a trust responsibility to the tribes and a duty to protect the tribes' treaty-reserved resources. The tribes' treaties are constitutionally-protected and by fulfilling these federal obligations and implementing our requested changes, we will recover the salmon populations.

Salmon has always been the foundation of tribal cultures, traditions and economies in western Washington. When our tribal ancestors signed treaties, ceding millions of acres of land to the United States government, they reserved fishing, hunting and gathering rights in all traditional areas. These constitutionally-protected treaties, the federal trust responsibility and extensive case law, including the *U.S. v. Washington* decision (1974), all consistently support the role of tribes as natural resource managers, both on and off reservation. In Washington State, these provisions have developed into a successful co-management partnership between the federal, state and tribal governments. This collaboration has helped us to deal with many problems, but still requires additional support to meet the many new challenges like air and water pollution and climate change.

The tribes are strategically located in each of the major watersheds, and no other group of people is more knowledgeable about the natural resources. Western Washington tribes are leaders in protecting and sustaining our natural resources. The tribes possess the legal authority, and the technical and policy expertise to effectively manage programs to confront the challenges that face our region and the nation. Tribes seize every opportunity to coordinate with other governments and non-governmental entities to avoid duplication, maximize positive impacts, and emphasize the application of ecosystem management. We continue to participate in resource recovery and habitat restoration on an equal level with the state of Washington and the federal government because we understand the great value of such cooperation.

Of particular interest to us is the Pacific Coastal Salmon Recovery Fund. This is a critical funding source to restoring salmon habitat. The PCSRF assists tribes in the implementation of salmon recovery plans and moves us in the direction of achieving the recovery goals, which is a direct request in our TRAR initiative. We also continue to advocate for a number of the National Ocean Policy initiatives that would support key federal, state and tribal partnerships. Our specific requests are further described below.

JUSTIFICATION OF REQUESTS

- **Provide \$110 million for the Pacific Coastal Salmon Recovery Fund**

The Pacific Coastal Salmon Recovery Fund (PCSRF) is a multi-state, multi-tribe program established by Congress in FY 2000 with a primary goal to help recover wild salmon throughout the Pacific Northwest and Alaska. The PCSRF supports projects that restore, conserve and protect Pacific salmon and steelhead and their habitats. PCSRF is making a significant

contribution to the recovery of wild salmon throughout the region by financially supporting and leveraging local and regional efforts.

The tribes' overall goal in the PCSRF program is to restore wild salmon populations. The key tribal objective is to protect and restore important habitat that promotes the recovery of ESA listed species and other salmon populations in Puget Sound and along the Washington coast that are essential for western Washington tribes to exercise their treaty-reserved fishing rights consistent with *U.S. v. Washington* and *Hoh v. Baldrige*². These funds support policy and technical capacities within tribal resource management departments to plan, implement, and monitor recovery activities.

It is for these reasons that the tribes strongly support the PCSRF. The tribes have used these funds to support the scientific salmon recovery approach that makes this program so unique and important. Related to this scientific approach has been the tribal leadership effort which has developed and is currently implementing the ESA-listed Puget Sound Chinook Recovery Plan approved by NOAA.

We support the restoration of PCSRF in FY 2014 to the \$110 million level. These funds have decreased over the past decade from the peak of FY 2002 of \$110 million. We continue to support the original intent of Congress that would enable the federal government to fulfill its obligations to salmon recovery and the treaty fishing rights of the tribes. Salmon restoration projects not only benefits fish populations and their habitat but provides much needed jobs for the local communities. This would continue to cover watershed restoration and salmon recovery work as well as fish hatchery reform efforts.

- **Provide \$7.859 million in funding for NOAA Pacific Salmon Treaty and the additional \$3.0 million associated with the 2008 Chinook Salmon Agreement**

In 1985, after two decades of discussions, the Pacific Salmon Treaty (PST) was created through the cooperative efforts of tribal, state, U.S. and Canadian governments, and sport and commercial fishing interests. The Pacific Salmon Commission (PSC) was created by the United States and Canada to implement the treaty, which was updated in 1999, and most recently in 2008.

The PSC establishes fishery regimes, develops management recommendations, assesses each country's performance and compliance with the treaty, and is the forum for all entities to work towards reaching an agreement on mutual fisheries issues. As co-managers of the fishery resources in western Washington, tribal participation in implementing the PST is critical to achieve the goals of the treaty to protect, share and restore salmon resources.

Adult salmon returning to most western Washington streams migrate through U.S. and Canadian waters and are harvested by fisherman from both countries. For years, there were no restrictions on the interception of returning salmon by fishermen of neighboring countries. The 2008 update of the treaty gave additional protection to weak runs of Chinook salmon returning to Puget

² *Hoh v. Baldrige* - A federal court ruling that required fisheries management on a river-by-river basis.

Sound rivers. The update provided compensation to Alaskan fishermen for lost fishing opportunities, while also funding habitat restoration in the Puget Sound region.

We support the Pacific Salmon Commission/U.S. Section's request of \$7.859 million. We also support their request of \$1.5 million for the Puget Sound Critical Chinook Stock Program and \$1.5 million for the Coded-Wire-Tagging (CWT) Improvement Program as required by the 2008 PST Chinook Annex Agreement. This funding covers the operation and maintenance costs for the hatchery augmentation programs. These programs were initiated in connection with the 2008 Chinook Agreement of the US/Canada Pacific Salmon Treaty as the conservation needs of these populations could not be met by harvest restriction actions alone. The funding also allows for continued maintenance and improvement of the coast-wide CWT program. This is essential for the sustainability and management of our fisheries resources.

- **Provide \$15.9 million in funding for NOAA Mitchell Act Hatchery Program**

Salmon produced by the Mitchell Act hatcheries on the lower Columbia River are critically important in that they provide significant fish production for harvest opportunities for tribal treaty fisheries in the Columbia River, and for ocean and in-river recreational and commercial fisheries, including tribal treaty fisheries along the Washington coast. This hatchery production is intended to mitigate for the lost production caused by the hydropower dam system on the Columbia River. Overall hatchery production has been reduced from more than 100 million to fewer than 60 million fish.

We support the President's request of \$15.9 million for the Mitchell Act Hatchery Program. Funding is provided for the operation of 17 fish hatcheries with the release of between 50 and 60 million juvenile salmon and steelhead in Oregon, Washington, and Idaho. Providing adequate funding to maintain the current production levels from the Mitchell Act hatcheries on the Columbia River is important as this production supports coastal salmon fisheries and dampens the impact of Canadian fisheries under the terms of the PST Chinook Annex on Puget Sound and coastal stocks. Adequate funding will also allow these facilities to be retrofitted to meet current ESA standards as identified through the hatchery reform process.

- **Provide \$20 million for the Regional Ocean Partnership Grants Program**

The Hoh Tribe, Makah Tribe, Quileute Tribe, and the Quinault Indian Nation have deep connections to the marine resources off the Washington coast. They have pioneered cooperative partnerships with the state of Washington and the federal government in an effort to advance management practices in the coastal waters. However, to have an effective partnership, the tribes and their partners need additional funding. More specifically, our coastal tribes with treaty-reserved rights need funding.

The four tribes, the state of Washington and NOAA's National Ocean Service, through the Marine Sanctuary Program, have formed the Intergovernmental Policy Council (IPC), which is intended to strengthen management partnerships through coordination and focus of work efforts. Through this partnership, the entities hope to maximize resource protection and management, while respecting existing jurisdictional and management authorities.

The four coastal tribes and the state also wish to engage in an ocean monitoring and research initiative to support and transition into an ecosystem-based fisheries management plan for the Washington coast. This tribal-state effort would be in collaboration with NOAA and consistent with regional priorities identified by a regional planning body. Effective management of the ocean ecosystem and its associated resources requires the development of baseline information against which changes can be measured. This initiative will expand on and complement existing physical and biological databases to enhance ecosystem-based management capabilities. In turn, this will support ongoing efforts by the state and tribes to become more actively engaged in the management of offshore fishery resources.

The Regional Ocean Partnership (ROP) Grants program, within the National Ocean Service Coastal Management account, would be an ideal program to support tribal participation in this regional ocean planning body. Funding for this competitive grant program supports regional ocean partnerships, including coastal and marine spatial planning. For the tribes and state to conduct an ocean monitoring and research initiative off the Washington coast, they will need funding to support this effort. Regional ocean governance mechanisms facilitate the effective management of ocean and coastal resources across jurisdictional boundaries by improving communications, aligning priorities, and enhancing resource sharing between state, local, tribal and federal agencies. The efforts by the coastal tribes to form the IPC and to coordinate rockfish and deep sea coral research, habitat mapping and climate change considerations fits nicely with the ROP. Healthy oceans are essential if we value stable climates that will sustain our economies and our lives. Tribes must be partners in the efforts to research, clean up and restore the environment in order to deal with identified problems.

CONCLUSION

The treaties and the treaty-reserved right to harvest are the supreme law of the land under the U.S. Constitution. Some of the treaty tribes have had to give up even their most basic ceremonial and subsistence fisheries. For the sake of sustainable health, economies and the natural heritage of this resource, it is critically important for Congress and the federal government to do even more to coordinate their efforts with state and tribal governments. Tribes are key partners in the management of natural resources by virtue of treaty-reserved rights and our legal status as co-managers. We have all made a huge investment in the recovery of salmon and their habitat but it has not been enough.

We are sensitive to the budget challenges that Congress faces. However, we urge you to continue to support our efforts to protect and restore our great natural heritage and support our funding requests. Thank you.