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THE WHITE HOUSE
WASHINGTON

October 18, 1976

NOTE TO BILL BAROODY

Subject: Important Note re the President's Trip to
the State of Washington and Seattle

A subject of great political and public interest in the Seattle area right now is the decision of Judge Boldt in the US v Washington Indian fishing rights case. This decision was made about 3 years ago, has been affirmed by the U.S. Court of Appeals and certiorari has been denied by the Supreme Court, so it is final and the law of the land.

The decision reaffirms the Indians' treaty rights (of 1855) ~~and~~ to the salmon run in the Puget Sound area, and, after providing for the inviolability of the spawning run, says that the Treaties did in fact guarantee the Indians the right to 50% of the catch.

These rights have been covered up and tramped on by local and State officials, and commercial and sports fishermen for 120 years; now they have been reaffirmed for the Indians in a landmark decision in the protection of Indian trust rights. The U.S. Government argued strongly for the kind of decision Judge Boldt made, since the Government is the trustee for Indian rights and thus must uphold these rights and be the advocate for them.

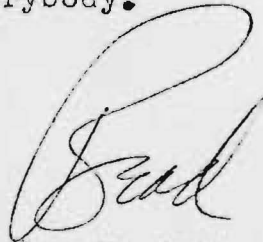
Of course State, local, commercial and sports fishermen are unhappy about the decision; Lloyd Meeds got a lot of pressure about it. The President will be pressured, I think, to disavow or criticize or express personal disagreement with the decision. This would be a mistake of the first order.



Americans generally (not just Indians) are slowly beginning to recognize that the government is at last stepping up to defend Indian treaty and trust rights; the Head of our Executive Branch should not flinch in this area. The issue of treaty and trust rights is a bellwether issue among Indian people and among the millions of Americans who are sympathetic to Indian causes.

If the President is asked about the Boldt decision, his response should be:

1. It's the law of the land, as decided by the Courts.
2. Indian treaty rights are important and their trustee, the Federal Government, has to be mindful of those rights.
3. The answer now is to have Indians and non-Indians both get into the hatchery business more, and expand the basic supply of salmon for everybody.



Bradley H. Patterson, Jr.



cc Mrs Kilberg



DEPARTMENT OF STATE

Washington, D.C. 20520

*F-Is
Fiskeris*

June 21, 1974

Mr. Bradley Patterson
Executive Office Building
Room 182
Washington, D. C. 20500

Dear Mr. Patterson:

I am enclosing a statement which deals with our overall position.

If I can be of any further assistance, please do hesitate to call upon me.

Sincerely,

Roger Hull

Roger Hull

632 - ~~8772~~
9574

Enc.

cc sent to Martin Sence



The United States Views on the Fisheries Question

The United States has proposed, in the law of the sea negotiations, treaty articles which would provide an effective legal basis for the conservation and efficient utilization of the distinct kinds of fish stocks of the world's oceans. In so doing, the articles would provide for extensive coastal or host state jurisdiction over coastal and anadromous fisheries stocks to the limits of their range and international or regional management of highly migratory species.

Fisheries Management

Under the U.S. proposals the coastal state would have a preferential right to that portion of the allowable catch of coastal species which it could harvest. Anadromous species (those fish, such as salmon which return to fresh water to spawn) would be subject to the control of the host state (i.e., the coastal state where the spawning rivers are located) to the limit of their migratory range. Highly migratory stocks, such as tuna, which migrate over vast distances, would be managed by international and regional organizations in which all fishing and interested coastal states could participate.

The United States proposals reflect several principal objectives.

Full Utilization of Stocks

The coastal state could reserve to itself that portion of the allowable catch of coastal and anadromous stocks which it can harvest, but would have to permit vessels of other states to fish for the remainder under reasonable conditions so as to ensure full utilization of such stocks, consistent with maintaining the productivity of the ecosystem and taking into account the effect of such fishing on other species. Access would be provided in a manner which would permit traditional fishing on the basis of a formula to be negotiated. The coastal state could charge a reasonable management fee for those participating in the fishery. The regulation of highly migratory stocks would be carried out by the pertinent international or regional organization, in which all coastal and other interested states would have an equal right to participate.



Sound Conservation Principles

Standards would be set which would serve two major objectives: attaining maximum long-term benefits from the ocean's living resources, and ensuring meaningful worldwide conservation and environmental protection. In order to achieve these objectives, the coastal state or the regional or international organization (in the case of tuna) would set an allowable catch based on the best scientific evidence available and consistent with certain qualifications (environmental and economic) which would make possible the achievement of maximum sustainable yield through time. This would provide the management authority with needed flexibility in the management of fisheries stocks.

Adequate Enforcement Measures

With respect to coastal and anadromous species, the coastal state could inspect and arrest any vessel fishing in violation of its regulations. It could try and punish vessels of a foreign state, provided that where the flag state of the vessel has established procedures for trial and punishment for violation of coastal state regulations, the coastal state would turn the vessel over to the flag state for trial and punishment in which case it would be notified of the results by the flag state. Provision is also made in the U.S. articles for the inspection and arrest of vessels violating the regulations of international fisheries organizations where authorized by the organization.

Dispute Settlement

Disputes concerning the interpretation of the Law of the Sea Convention would be subject to dispute settlement procedures as provided in the Convention.

Assistance to Developing States

A provision for the establishment of an international group of independent fisheries experts to assist developing states is included in the U.S. fisheries articles.

Highly Migratory and Anadromous Stocks

Highly Migratory Stocks

Special provision is made in our articles for regulating highly migratory stocks within the framework of regional

or international organizations. Due to the biological characteristics of these stocks they cannot be effectively managed by the separate coastal states. All commercially valuable species of tuna are characterized by high mobility and long migrations over vast reaches of the ocean. Although their spawning habits are not well-known, it has been established that they generally spawn in the open ocean rather than in some defined areas. Due to these unique biological characteristics, they require special techniques for harvesting and for management. Conservation measures, if they are to be effective, must be applied to the stock as a whole. In the case of a highly migratory stock, this can only be accomplished through international standards. In appraising the measures man can take to influence the productivity of these fish, it would seem to be limited to measures to ensure that the stock as a whole is not overfished. Such a conservation measure can only be effective if it is applied through an international organization. Any other system would not allow for full utilization of the resource consistent with maintaining the productivity of the ecological system while at the same time preventing overfishing.

Highly migratory species present special harvesting and utilization problems. Since fishing grounds shift with migrations of the fish, the most efficient commercial exploitation is carried on by high speed, long range vessels. If artificial constraints are placed on the harvesting of tuna, such as might be the case with coastal state regulation, a substantial portion of the tuna fishing could be limited to very small, low efficiency vessels operating within each national zone. This could cause efficiency to drop, and cause reductions in catch, a diminishing supply of tuna available for world food markets, and higher prices.

Because the availability of tunas in certain areas is variable, some coastal states might find their available catch widely fluctuating from year to year. Countries with short coastlines would most likely be excluded from the fishery unless they were able to establish a high seas fleet, the cost of tuna would rise, and the supply of available tuna would drop.

Since the migratory patterns differ from year to year, depending on natural factors such as availability of food, it cannot be certain that the same amount of tuna can be caught each year off any country. If that country's industry must depend on the tuna caught just in a 200-mile zone off its coast, it cannot be economically viable with such an unstable supply condition.



The best way to ensure long-term conservation and the development of tuna is to provide for management through regional or international organizations composed of all interested nations.

Anadromous Stocks

Special provision is also made in the U.S. articles for extensive regulation of anadromous stocks by the host state throughout their migratory range (regardless of whether they are off the coast of the host state). This provision is necessary to ensure effective management of these stocks. Anadromous fish, by virtue of their habits, are exceptionally vulnerable to exploitation. These stocks range far out into the high seas and intermingle substantially. The fish return to the individual streams of origin, and thus each stream supports an individual salmon run. It is when they return to fresh water to spawn that they have reached their maximum growth and that selective harvesting can take place. If these stocks are fished indiscriminately and non-selectively far out from the coast, the breeding stock of individual stream systems may be destroyed. Thus, conservation and management authority is necessary over these stocks as far off-shore as they range. Furthermore, in order to maintain viable anadromous stocks, it is necessary that a certain number be allowed to spawn each year. It is only during the period that the fish return to the breeding grounds in their streams of origin that accurate estimates of the condition of the stock can be made, and the proper number be allowed to escape for spawning and only the remainder be harvested.

Anadromous fish such as salmon depend on the fresh water environment for their survival and thus pose special problems for the host state. If the salmon stock is to remain viable, the host state must ensure that the fresh water spawning streams used by the salmon are able to support the yearly runs. Natural obstacles such as log jams or rock slides must be cleared. Man-made obstacles such as hydroelectric or flood control dams must be specially designed so as to allow the salmon to pass upstream; water diversion systems (such as irrigation) or industrial run-off must be controlled. There must be special pollution and silting control measures implemented, etc. All of these direct outlays as well as the indirect cost of curtailing industrialization and commerce along major river systems represent a major investment by the host state. Since such a heavy and continuing investment is required by the host state, it is only appropriate that its investments in the anadromous stocks be protected and that and that its fishermen be given preferential harvesting rights. Therefore, it is the host state that should logically be responsible for the setting of conservation and harvesting regulations.

BUREAU OF PUBLIC AFFAIRS

special report

Department of State
Office of Media Services



U.N. Law of the Sea Conference 1974

In June 1974 Caracas, Venezuela, will be the site of the Third U.N. Conference on the Law of the Sea—one of the most important international conferences to take place since World War II. Some 150 nations, 119 of which are coastal states, will focus on the problem of bringing greater legal order to 70 percent of the world's surface—the seas. Discussions will embrace such wide-ranging issues as the width of the territorial sea, unimpeded passage through and over international straits, living resources, mineral resources of the continental margins and the deep seabed, marine environment protection and scientific research, and settlement of disputes.

The choice is whether the international community can agree on a comprehensive legal regime for the world's oceans which will

usher in an era of cooperation and development, or whether the oceans will serve instead as an increasing source of conflict among nations.

BACKGROUND

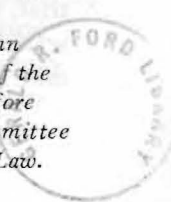
In 1958 and again in 1960, at the First and Second United Nations Conferences on the Law of the Sea, the nations of the world attempted to resolve the problems associated with competing uses of the oceans. The four Geneva Conventions on Law of the Sea that emerged from the first conference were partially successful in codifying the international law of the sea. These conventions were the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on the Continental Shelf, and the Convention on Fishing and Conservation of the Living Resources of the High Seas. Neither in 1958 nor in 1960, however, were nations able to agree on the breadth of the territorial sea, the extent of fisheries jurisdiction, or the outer limits of the coastal states' exclusive rights over continental shelf resources. These traditional problems were soon combined with new problems—for example, the growing need for protection of the marine environment and such uncertainties resulting from advances in technology as the mining of manganese nodules from the deep seabed.

With these unresolved problems as background, in December 1970, the U.N. General

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This paper is based on a recent statement by John Norton Moore, Deputy Special Representative of the President for the Law of the Sea Conference before the House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, and International Law.



U.S. OBJECTIVES AT THE CONFERENCE

- Internationally agreed limits to the territorial sea.
- Unimpeded transit through and over international straits.
- Full utilization and conservation of fish resources.
- International standards defining rights and duties of states with respect to exploitation of marine resources.
- A satisfactory international legal system for the rational and efficient development of the mineral resources of the deep seabeds.
- Marine scientific research rights and obligations.
- Preservation and protection of the marine environment.
- Agreement on compulsory settlement of disputes.

Assembly scheduled a comprehensive conference on the law of the sea to commence in 1973. The U.N. Seabed Committee, which has held six sessions since its formation, was charged with preparations for a conference to deal with:

- A multilateral treaty regime for the breadth of the territorial seas;
- Unimpeded transit through and over international straits;
- Living resources;
- Mineral resources of the continental shelf and margins;
- Mineral resources of the deep seabed;
- Protection of the marine environment;
- Marine scientific research;
- Settlement of disputes.

TERRITORIAL SEA, TRANSIT THROUGH STRAITS

For nearly 200 years the United States and many other nations have adhered to a territorial sea of 3 miles (the distance of an 18th century cannon shot). The United States has maintained that 3 miles is the maximum breadth recognized under international law.

U.S. Position. In an attempt to develop worldwide consensus on the breadth of the territorial sea, the United States has proposed that, in the context of an overall satisfactory settlement, it would be willing to accept a 12-mile territorial sea.

Such an extension of the territorial sea from 3 to 12 miles, however, would overlap more than 100 straits between 6 and 24 miles in width which, under a 3-mile territorial sea, now include high seas. Because of the importance of straits as avenues for international navigation, the United States has coupled its willingness to agree to a 12-mile territorial sea with recognition of a treaty right of unimpeded transit through and over straits used for international navigation. Without clear recognition of such a right of unimpeded transit, it might be possible to assert that only the right of innocent passage would apply even in such strategically important straits as Gibraltar.

The traditional doctrine of innocent passage evolved long before the advent of submarines, supertankers, and aircraft and was premised on a narrow territorial sea. Partly because of this historical beginning, the innocent passage regime does not permit submerged transit by submarines or overflight by aircraft. Moreover, there is an insufficiently agreed international understanding of what passage is "innocent." As a result there is always a danger of subjective interpretation of "innocence," which is defined as passage that is not prejudicial to the "peace, good order, or security" of the coastal state. Some strait states have asserted, for example, that large petroleum tankers or nuclear-powered vessels are inherently "non-innocent."

It has never made sense to apply to international straits a legal doctrine developed to

govern passage in the territorial sea. Unlike the territorial sea in general, international straits serve as access and connecting points for large areas of the oceans. As such, transit through straits is essential to meaningful exercise of the high seas rights of all states in these vast areas. Functionally, then, straits are quite distinct from other territorial sea areas. And because of their special prominence, the potential for conflict from an uncertain legal regime is greatly increased in straits.

U.S. Proposals. To avoid these and other difficulties, the United States has submitted a draft treaty article that would provide a right of unimpeded navigation through and over international straits. This right is less than that presently exercised under existing high seas principles and is limited to a right in international straits to move through the strait in the normal mode for the vessel or aircraft.

The United States has also made it clear that it recognizes the legitimate safety and pollution concerns of straits states. Accordingly, we have proposed that surface ships transiting straits observe the traffic separation schemes of the International Maritime Consultative Organization (IMCO) and that state aircraft normally comply with the regulations and procedures of the International Civil Aviation Organization (ICAO). We have also proposed that strict liability apply for damage caused by deviations from such IMCO or ICAO regulations. Our objective is to find a balance between the reasonable concerns of straits states and the need of the international community for guarantees of meaningful high seas usage. This includes the mobility of military vessels and aircraft which could be seriously hampered by restrictions on transit through and over straits.

The U.S. straits proposal is not, of course, limited to military vessels and aircraft. We are equally concerned about unimpeded transit for commercial vessels. The energy dilemma has brought widespread attention to the fact that a nation's well-being may be intimately linked to an adequate and secure supply of

petroleum and other basic imports. All nations must have reliable international legal rights to bring necessary resources through international straits.

For these reasons we have repeatedly stated that agreement on a 12-mile territorial sea must be coupled with agreement on unimpeded transit of international straits, which together constitute basic elements of our national policy.

LIVING RESOURCES

The oceans are no longer a great cornucopia of endless supplies of fish. The advent of more efficient fishing techniques and a growing demand for fisheries products have led to serious depletion of some stocks and have demonstrated that there is a pressing need for a rational conservation and allocation system for the living resources of the oceans. In fact, some estimates indicate that the world community is approaching the maximum sustainable yield for many traditional species of fish within the decade (e.g., haddock stocks in the North Atlantic, halibut and salmon in the North Pacific).

Against this background of increasing fishing pressure, it is of particular concern that a regime be established which will solve the "common pool" problem in fisheries and grant jurisdiction to manage fish stocks which is essentially coextensive with the range of those stocks.

U.S. Position. To meet these needs the United States has proposed broad coastal state control over coastal (e.g., haddock) and anadromous stocks which spawn in fresh water (e.g., salmon) coextensive with the range of each species, and international management of highly migratory species such as tuna.

Under this approach coastal nations would have broad resource management jurisdiction over coastal stocks throughout their migratory range. They would also have preferential harvesting rights—to the limit of their fishing

capacity—to such coastal stocks within the allowable catch. Other nations would be entitled to harvest the remaining allowable catch. Coastal nations would also have management jurisdiction and preferential rights over anadromous stocks throughout their range on the high seas. Since these species spawn in the fresh waters of coastal nations, those nations must bear the expenses necessary to provide an environment in which the stock can flourish. Moreover, the concepts of conservation and full utilization are best served for these species by harvesting close to the coast as the fish return from their high seas journey. The coastal nation is clearly in the best position to manage, conserve, and harvest these anadromous stocks.

Highly migratory species, however, cover vast distances through the waters off many nations. The only practicable way to manage and conserve such highly migratory resources is through international or regional arrangements. Accordingly, our approach provides for international or regional management for such stocks. No single coastal state is in a position to conserve these stocks, and coastal state control would neither provide conservation protection nor assure coastal nations of an economically viable fishery for highly migratory species.

MINERAL RESOURCES: CONTINENTAL MARGINS

The Continental Shelf Convention allows coastal states exclusive rights to explore and exploit these natural resources out to the 200-meter isobath, and beyond, to where the depth of the superjacent waters admits of exploitation.

Since World War II there have been a number of technological improvements which have allowed offshore production to take place in increasingly deeper water. It is now clear that seabed resource jurisdiction could extend well beyond the 200-meter depth though there is still uncertainty as to the outer limit of such jurisdiction.

U.S. Position. To meet these present realities and to encourage a more definite legal regime, the United States has stated that we are prepared to accept coastal state resource jurisdiction in a broad coastal seabed economic area. It is also our position that in this area the coastal state would have exclusive rights over offshore installations affecting its economic interests. While we have not indicated a position on the limits of such an area, the area must be subject to appropriate international standards for:

- Protection of other uses of the area, particularly protection of navigation and other high seas freedoms;
- Preservation of the marine environment;
- Protection of the integrity of agreements and investments made in the area;
- Provision for compulsory dispute settlement;
- Provision for revenue sharing for international community purposes.

One potential danger in these negotiations, both with respect to living and non-living resources, is that some coastal states may attempt to acquire exclusive rights to offshore areas instead of claiming just the functional rights necessary for efficient development of the resources of these areas.

One key to a successful conference will be to separate jurisdiction over resources from jurisdiction over navigational freedoms and other non-resource uses and to carefully safeguard the non-resource uses. History has demonstrated that nations making claims to jurisdiction over high seas areas for one purpose have a tendency to expand those claims to jurisdiction for other purposes. For example, the figure of 12 miles was first used almost entirely in connection with claims for an exclusive fishing zone. Today, approximately half of the world's coastal nations claim a 12-mile territorial sea. Even the extreme 200-mile territorial sea claims seem to have their genesis largely in resource concerns. It is important, then, that the conference insure that coastal

state rights adjacent to a 12-mile territorial sea are limited to those needed for resource development and that the other high seas freedoms remain in the international community.

MINERAL RESOURCES: DEEP SEABED

Beyond the world's continental margins, a new ocean use is developing. Advanced marine technology will shortly permit the commercial exploitation of manganese nodules from the deep ocean floor. The orderly development of this resource, however, is threatened by differing perceptions concerning the applicable legal regime.

U.S. Position. We believe that timely international agreement on an effective international regime for the development of these deep seabed resources is the best way to assure the stable investment climate needed to encourage development and to insure adequate protection of the marine environment. Such an approach could also provide for the sharing of revenues from deep seabed mining for international community purposes—particularly assistance to developing nations. We are mindful that for this approach to be successful the international community must conclude a timely agreement and one which will genuinely promote efficient development. In this connection we have indicated that we would not view agreement as timely unless it were reached in accordance with the U.N. General Assembly schedule calling for completion of the work of the conference in 1974 or 1975 at the latest.

Similarly, for an international approach to be successful, the agreement must genuinely promote efficient development. We believe that such development will best be served by a legal order which permits access to the resources of the deep seabed under reasonable conditions that will facilitate investment. For that reason, any machinery to be established could not have discretion to deny access to those resources or to alter the conditions upon which security of investment depends.

MARINE ENVIRONMENT PROTECTION

Protection of the marine environment was one of the largely overlooked subjects at the 1958 and 1960 conferences. In contrast, today we are acutely aware of the need for such protection. The Stockholm Conference on the Human Environment brought worldwide attention to the need for multilateral action on this subject. It is widely understood that the Third United Nations Conference on the Law of the Sea must establish an adequate jurisdictional basis for protection of the marine environment against threats from all sources.

This very awareness of the need to protect the marine environment, however, may hold a subtle danger for the law of the sea, unless we are careful to functionally distinguish the differing threats to the marine environment. Some coastal states have sought jurisdiction for protection of the marine environment from all sources in an area coextensive with their resource claims. With respect to pollution from exploration and exploitation of seabed resources, coastal states should have this authority—subject to an obligation to observe at least minimum international standards. But with respect to vessel-source pollution, recognition of coastal state jurisdiction to make and enforce pollution prevention standards (such as construction standards for vessels) could seriously endanger freedom of navigation.

If each of the 119 coastal nations had jurisdiction to set construction standards for vessels, a hodgepodge of conflicting standards would result. Such jurisdiction would also permit decisions on standards to be made solely by coastal nations without the careful balancing of maritime and coastal interests which would result from an international solution.

Moreover, if coastal nations were to have jurisdiction capable of affecting navigational freedom in an area as broad as 200 miles, a majority of all those coastal nations would be totally zone-locked with no access to any ocean on which they face without being subjected to the jurisdiction of their neighbors.

U.S. Position. We have strongly urged that standards for vessel source pollution should only be set internationally through IMCO, by flag states for their own vessels, or by port states for vessels using their ports.

MARINE SCIENTIFIC RESEARCH

Marine research has benefited all mankind and will become even more important in the years ahead as we seek greater information needed for adequate protection and rational use of the marine environment. While international law generally recognizes freedom of research beyond the territorial sea, the existing Continental Shelf Convention subjects research concerning the continental shelf and undertaken there to the consent of the coastal state. The Shelf Convention, though, also creates an obligation normally not to withhold consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf. There is a further proviso that the coastal state shall have the right, if it so desires, to participate or to be represented in the research and that, in any event, the results shall be published.

Unfortunately, the experience with the Shelf Convention regime for scientific research has not been good. Some states have arbitrarily denied consent. Others have imposed burdensome conditions on research or simply not replied to the request for permission.

U.S. Position. We feel that it is preferable to meet the legitimate concerns of coastal nations by creating a series of obligations which are binding on the researching nations, rather than by giving coastal nations the right to withhold consent. Accordingly, we have proposed that a nation planning a research voyage in areas where the coastal state has resource jurisdiction should be required to provide the concerned coastal nations with reasonable advance notification of its intent to engage in research off their shores. Researching states would certify that the research will be conducted in accordance with the treaty by a

qualified institution with a view to purely scientific research.

Such nations would also insure that the coastal state had appropriate opportunities to participate or be represented in the research project, either directly or through an appropriate international institution; that all data and samples were shared with the coastal state; that significant research results were suitably published; that the coastal state was assisted in assessing the data and results; and that there was compliance with all applicable international environmental standards.

We believe this approach achieves a better balance between the interests of coastal nations and the international community than a consent regime. Similarly, we are convinced that this approach is in the common interest of all nations in better promoting a free flow of scientific knowledge about the earth we share in common.

SETTLEMENT OF DISPUTES

It is important that any comprehensive oceans law treaty also establish adequate machinery for the settlement of disputes. Machinery which would insure compulsory third-party settlement of disputes arising under the treaty would serve to minimize conflict as well as contribute to increased stability of expectations.

U.S. Proposals. We have proposed the creation of a new oceans tribunal which would have broad jurisdiction to deal with such disputes. We particularly hope that this issue can be addressed early in the conference and that all nations will recognize their strong interest in adequate dispute settlement procedures.

To insure that advancing technology will not overtake the ability of the international community to achieve cooperative solutions, the United States has also proposed that portions of the new ocean law treaty, particularly those relating to deep seabed mining and fisheries, should go into force on a provisional basis. Provisional application of those portions of the treaty would enable a timely solution

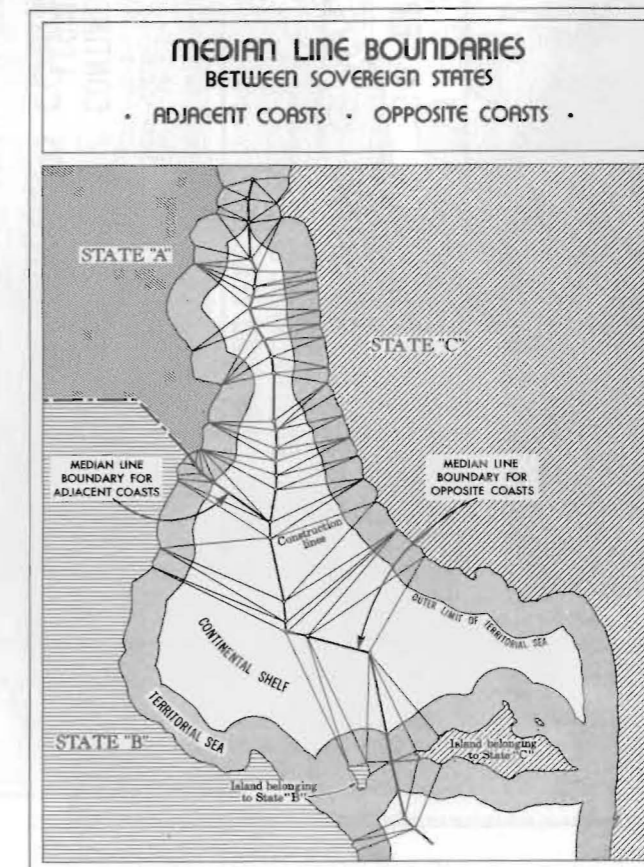
to these problems without waiting for the process of international ratification to bring the new treaty into full force. The concept of provisional application is well respected in international law and would in no way prejudice the negotiation.

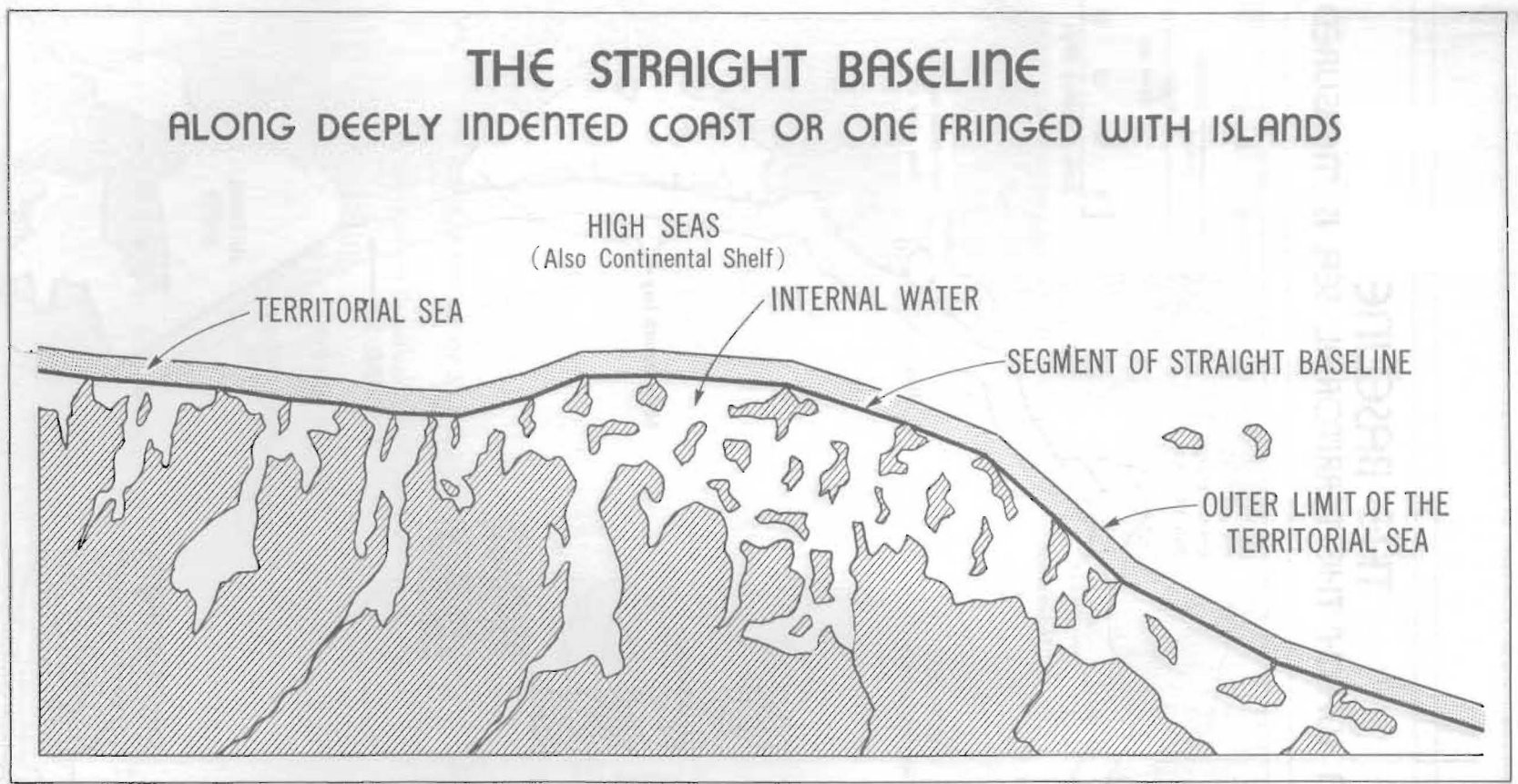
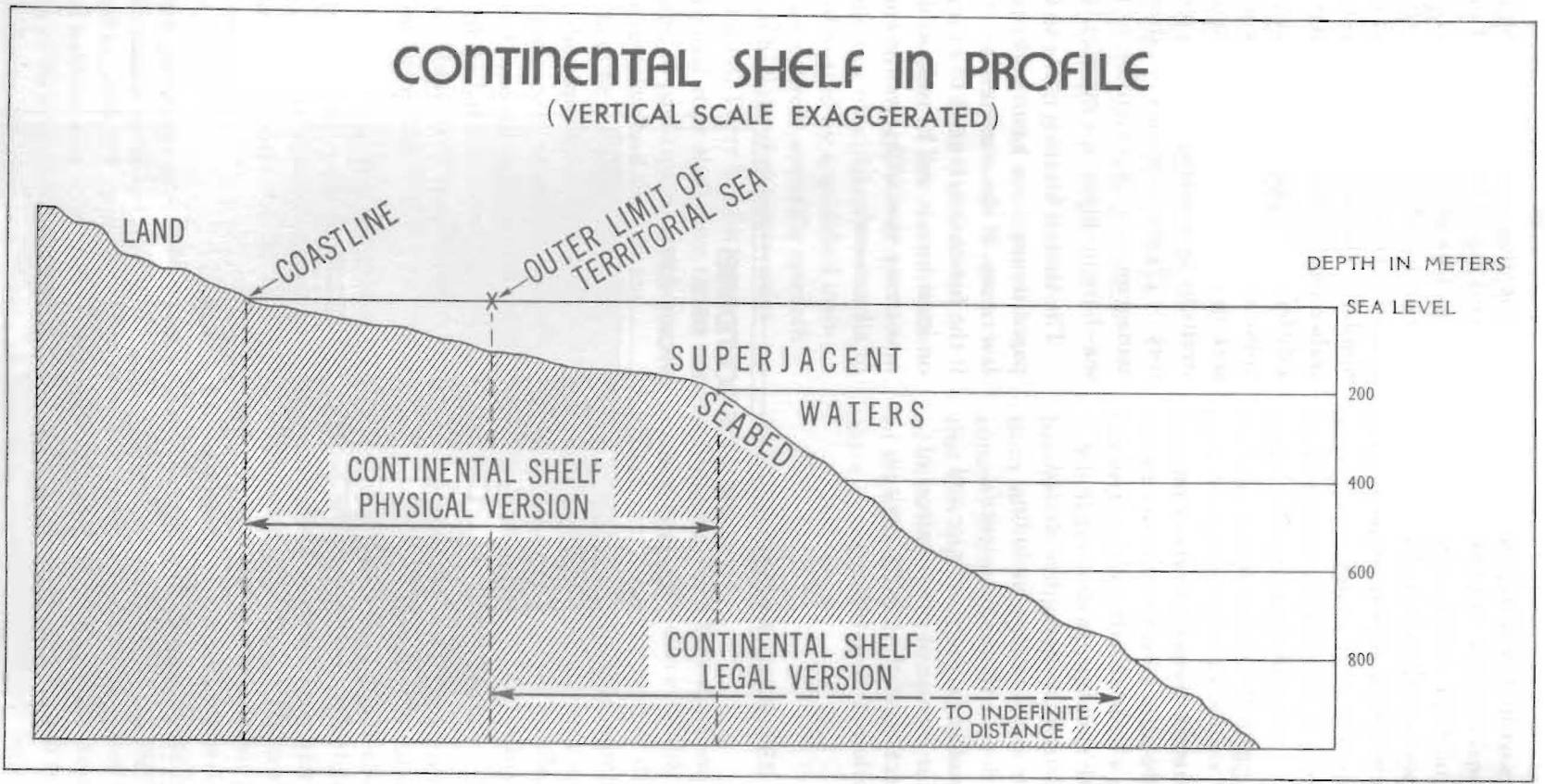
THE CHALLENGE

The Third United Nations Conference on the Law of the Sea is, in a very real sense, engaged in drafting a basic charter for over two-thirds of the earth's surface. In drafting that charter the challenge is to strengthen shared community rights in the oceans, including navigational freedoms and marine scientific research, while building a more definite and rational regime for the use of the resources of the oceans, protection of the marine environment, and resolution of disputes.

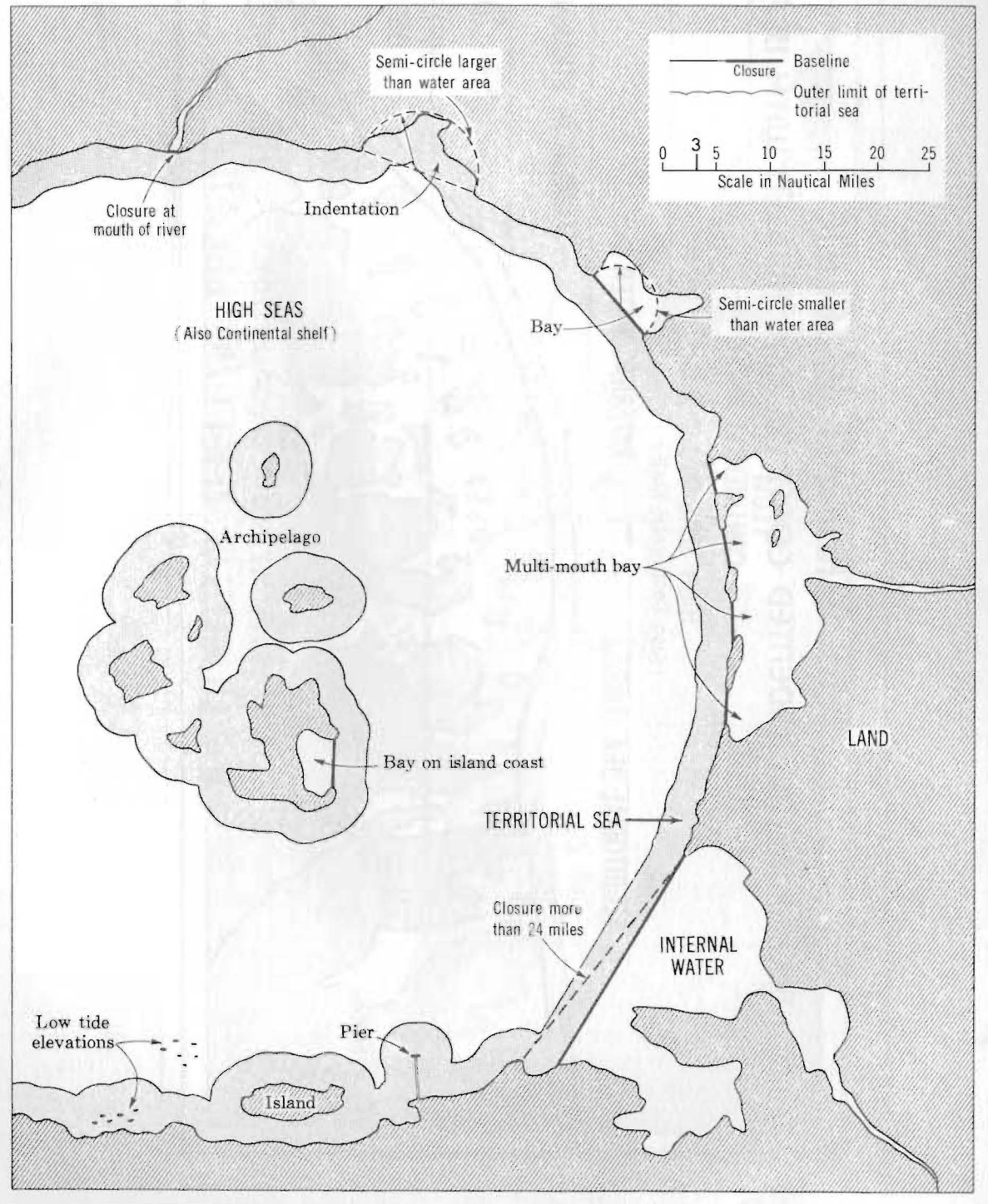
In meeting that challenge the best guide is a careful functional division of ocean uses. The nature of highly migratory species requires a different jurisdictional regime than that appropriate for coastal and anadromous species. Similarly, the prevention of pollution from seabed exploration and exploitation requires a different regime than that for vessel-source pollution. Some approaches—e.g., those which seek to resolve (1) the problem of international straits by assimilating them to national territory or (2) the problems of rational resource management by an extension of the territorial sea—have no place in a modern law of the sea.

The United States is going to Caracas prepared to negotiate a comprehensive oceans law treaty. If the conference can keep before it the fundamental need to examine each issue on its merits, it will be well on the way to a new treaty that will serve the common interest of all nations.





THE BASELINE FROM WHICH THE TERRITORIAL SEA IS MEASURED



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July 15, 1974

RECORD OF ACTION AT THE MEETING ON INDIAN FISHING
RIGHTS: Held at the White House on July 11, 1974

PARTICIPANTS:

White House:

Bradley H. Patterson, Jr.
Jim Spaith

State Department:

Stewart Blow
William Sullivan
Mrs. West
Mr. Feldman

Interior Department:

Kent Frizzell
Larry Aschenbrenner

Commerce Department

Robert Schoning
James Brennan
Dr. Robert Hutton

Justice Department:

Harry Sachse

Indian Representatives:

Mason Morisset, attorney
Charlie Peterson
Gene Parker
Forrest Kinley

ACTIONS AGREED UPON

1. General

It was agreed that the defense and protection of Indian treaty fishing rights in the instant circumstances and as defined by Judge Boldt are a part of the trust responsibilities which the United States Government bears.

2. Interim Measures

It was agreed that the representatives of the Departments of State and Commerce would orally instruct the U.S. Members of the International Pacific Salmon Fisheries Commission (IPSFC) to raise again, at the July 12 meeting of the Commission, the proposal earlier made on behalf of American Indian fisherman and denied by the Commission, i. e. that the Commission authorize two extra days of fishing per week during the current season to Indian fisherman in their usual and accustomed places in order to permit compliance



with the U. S. v Washington decision. It was further agreed that these instructions would include reference to the White House meeting and to the possibility, if necessary, that this matter might have to be raised at a government to government level between Washington and Ottawa.

3. Longer-Term Measure

The draft proposed IPSFC Regulation attached hereto as Annex A is to be examined first by Mr. Morisset and his Indian colleagues and then, with their comments if any, by the U. S. government officers attending the meeting with the intent that the U. S. Members of the Commission may be instructed to submit it to the plenary Commission as a supplement to standing Commission regulations.

3. Consultation with Indian Representatives

In view of the policy principle about full Indian participation set forth in the President's Message of July 8, 1970:

A. It was agreed that State and Commerce would raise with the U. S. Members of the Commission the question of naming an Indian as a U. S. member of the Advisory Council to the Commission.

B. In the interim before the above step becomes a reality, it was agreed that the U. S. Members of the Commission would be asked to establish an informal consultative relationship between those Members and appropriate representatives of the newly-formed Indian Fisheries Commission (the text of Constitution and By-Laws of the new Indian Fisheries Commission is attached as Annex B).

4. Indian Share of Sockeye Salmon Harvest

As an information item, the Indian representatives provided a table showing the Sockeye Salmon catch of the last three years; it is attached here as Annex C.

Bradley H. Patterson, Jr.

THE WHITE HOUSE

WASHINGTON

July 15, 1974

RECORD OF ACTION AT THE MEETING ON INDIAN FISHING RIGHTS: Held at the White House on July 11, 1974

PARTICIPANTS:

White House:

· Bradley H. Patterson, Jr.
Jim Spaith

State Department:

· Stewart Blow
William Sullivan
Mrs. West

· Mr. Feldman

Interior Department:

· Kent Frizzell
Larry Aschenbrenner

Commerce Department

· Robert Schoning
James Brennan
Dr. Robert Hutton

Justice Department:

· Harry Sachse

Indian Representatives:

· Mason Morisset, attorney
· Charlie Peterson
· Gene Parker
· Forrest Kinley

ACTIONS AGREED UPON

1. General

It was agreed that the defense and protection of Indian treaty fishing rights in the instant circumstances and as defined by Judge Boldt are a part of the trust responsibilities which the United States Government bears.

2. Interim Measures

It was agreed that the representatives of the Departments of State and Commerce would orally instruct the U.S. Members of the International Pacific Salmon Fisheries Commission (IPSF) to raise again, at the July 12 meeting of the Commission, the proposal earlier made on behalf of American Indian fisherman and denied by the Commission, i. e. that the Commission authorize two extra days of fishing per week during the current season to Indian fisherman in their usual and accustomed places in order to permit compliance



with the U.S. v Washington decision. It was further agreed that these instructions would include reference to the White House meeting and to the possibility, if necessary, that this matter might have to be raised at a government to government level between Washington and Ottawa.

3. Longer-Term Measure

The draft proposed IPSFC Regulation attached hereto as Annex A is to be examined first by Mr. Morisset and his Indian colleagues and then, with their comments if any, by the U.S. government officers attending the meeting with the intent that the U.S. Members of the Commission may be instructed to submit it to the plenary Commission as a supplement to standing Commission regulations.

3. Consultation with Indian Representatives

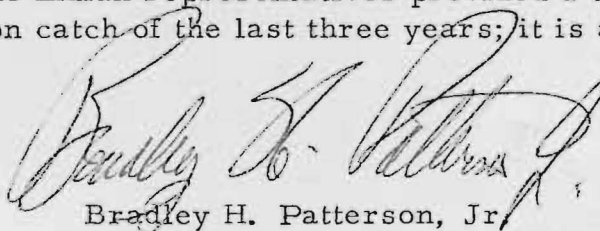
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A. It was agreed that State and Commerce would raise with the U.S. Members of the Commission the question of naming an Indian as a U.S. member of the Advisory Council to the Commission.

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Bradley H. Patterson, Jr.

between the United States and Canada were for
purposes, the following language is offered:

Draft Proposal for IPSEC Regulation

"The Dominion of Canada and the United States of America are authorized to take such action as is necessary to comply with domestic law applicable to the fishing rights of their citizens; *Provided, however,* (1) that the Commission be notified at least 24 hours in advance of any such action that falls within the regulatory concern of the Commission, (2) that such action must be taken within the season and gear limitations of the Commission's regulations, (3) that no such action may disturb the equal sharing of the harvestable catch as between the Dominion of Canada and the United States of America or adversely affect the spawning escapement, and (4) that the Commission may modify or rescind any such action by emergency order."



CONSTITUTION AND BYLAWS
of the
INDIAN FISHERIES COMMISSION

PREAMBLE

We, the Indians of the Pacific Northwest, recognize that our fisheries are a basic and important natural resource and of vital concern to the Indians of this state and that the conservation of this resource is dependent upon effective and progressive management. We further believe that by unity of action we can best accomplish these things, not only for the benefit of our own people but for all of the people of the Pacific Northwest.

ARTICLE I - NAME

The name of this organization shall be the Indian Fisheries Commission.

ARTICLE II - MEMBERSHIP

Sec. 1. Membership shall be open to an Indian tribe in Washington who:

- a.
 - a. Is recognized as a tribe by Federal Treaty, statute, agreement or regulation, and who
 - b. Is organized and operating under a constitution and bylaws, and who
 - c. Submits to the Commission a duly authorized Ordinance regulating the tribal fishery, and who
 - d. Ratifies this Constitution and Bylaws by appropriate tribal resolution.

Sec. 2. Each member tribe may revise at any time the Ordinance submitted under Sec. 1. c. of this Article.

ARTICLE III - GOVERNING BODY

Sec. 1. The governing body shall be the Commission. The Commission shall consist of 5 members elected from each of the 5 treaty areas in Western Washington, i.e., Makah, Quinault, Medicine Creek, Point No Point and Point Elliot.

- Sec. 2. a. The member tribes in the treaty area shall organize into a Treaty Council. The Treaty Council members in each treaty area, who shall be qualified by resolution to act on behalf of their tribes, shall meet prior to the regular annual meeting of the Commission and elect the members to represent such treaty areas on the Commission. Such elections shall be held in accordance with rules and regulations prescribed by the Treaty Council members in each treaty area.
- b. The treaty area will present a resolution to the Commission notifying them of their duly elected and authorized representatives of said treaty area.

Sec. 3. The term of office of each Commissioner shall be three years. The first elected Commissioners shall have terms as follows: First Commissioner for each treaty area - three years; Second Commissioner for each treaty area - two years; Third Commissioner for each treaty area - one year. Each year thereafter one Commissioner for each treaty area will be elected for a term of three years.

Sec. 4. For the purpose of determining Treaty Council membership for the treaty area elections, only those tribes who meet Sec. 1. a., b. and d., Article III, and who are presently operating under tribal fishing regulations shall be deemed qualified to vote.

Sec. 5. a. The Commission shall call at least annually a general meeting of all treaty areas of the Treaty Council to report in writing on the business transacted by the Commission.

b. A special meeting of the Commission can be called by the Chairman at the request of the Commission member of any treaty area.

ARTICLE IV - OFFICERS

Sec. 1. The officers of the Commission shall be Chairman, Vice-Chairman, and shall be elected by the members of the Commission.

Sec. 2. The term of office of each officer shall be for one year and shall commence with the regular meeting, except the first elected officers shall serve until the first regular election.

ARTICLE V - VACANCIES and REMOVAL

Sec. 1. If a Commissioner or official shall die, resign, permanently leave the state or area which he represents, or shall be found guilty of a crime or misdemeanor involving dishonesty by any court, the Treaty Council shall declare the position vacant and shall elect a replacement for the balance of the unexpired term.

Sec. 2. Any Treaty Council may by a majority affirmative vote replace their Commission member for cause. Before any vote for replacement is taken on the matter, such member shall be given an opportunity to answer any and all charges at a designated Treaty Council meeting; the decision of the Treaty Council shall be final.

ARTICLE VI - DUTIES OF OFFICERS

Sec. 1. The chairman shall preside over all meetings of the Commission, shall perform all duties of a Chairman and exercise any authority delegated to him by the Commission, or Regional Board. He shall vote in all matters.

Sec. 2. The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman he shall preside. When presiding he shall have all the rights, privileges, and duties as well as the responsibilities of the Chairman.

Sec. 3. The duties of the officers and any appointive committees or officers may be further defined by appropriate resolution of the Commission.

ARTICLE VII - MEETINGS

- Sec. 1. a. The conduct and procedure of the meetings may be further defined by appropriate resolution of the Commission.
- b. A quorum shall consist of 3 or more Commissioners.

ARTICLE VIII - POWERS OF THE COMMISSION

- Sec. 1. The Commission shall have the following powers:
- a. Formulate a broad general fisheries program designed to promote and coordinate the conservation practices of the members.
- b. Request technical advice and/or assistance from any source whatever for the purpose of assisting Indian fisheries and to consult with any and all individuals, organizations, institutions, and governments (tribal, local, state, federal and international) on matters pertaining to fisheries.
- c. To render any assistance within the authority of the Commission to any tribe, requesting such assistance.
- d. To levy dues on the member tribes, subject to the unanimous approval of the full membership of the Treaty Council.
- e. To accept funds from state, federal, private foundations or other sources for operations, when not in conflict with funding efforts of individual tribes.
- f. To provide public information.

Sec. 2. Any and all rights and powers vested in the member tribes shall not be abridged by this Constitution.

ARTICLE IX - AMENDMENTS

This Constitution and Bylaws may be amended by majority vote of the member tribes.

ARTICLE X - RATIFICATION

This Constitution and Bylaws shall be in full force and effect when ratified by all member tribes. Passed this 8 day of July 1974, at the regular council meeting held on July 8, 1974.

Signed: Larry G. Kinley

CATCH OF SOCKEYE SALMON IN AREAS 1 AND 2

	1971		1972		1973	
	Indian	Non-Indian	Indian	Non-Indian	Indian	Non-Indian
Point Roberts	3,184	1,063,370	3,622	489,956	5,562	940,110
Rosario	1,381	468,277	1,645	221,673	3,232	452,801
Salmon Banks	1,519	955,061	2,119	285,721	10,126	1,087,212
San Juans	0	24,351	0	4,599	0	12,537
Stuart Island	0	19,282	0	1,390	0	152,199
West Beach	21	50,685	22	60,669	0	20,879
Port Angeles	0	31,675	789	21,839	34	8,486
Clallam Bay	16	0	0	3,505	145	18,460
Cape Flattery	5,046	87,880	0	295	4,205	50,562
TOTALS	11,167	2,700,581	8,197	1,089,647	23,270	2,743,246

July 15, 1974

RECORD OF ACTION AT THE MEETING ON INDIAN FISHING
RIGHTS: Held at the White House on July 11, 1974

PARTICIPANTS:

White House:

Bradley H. Patterson, Jr.
Jim Spaith

State Department:

Stewart Blow
William Sullivan
Mrs. West
Mr. Feldman

Interior Department:

Kent Frizzell
Larry Aschenbrenner

Commerce Department

Robert Schoning
James Brennan
Dr. Robert Hutton

Justice Department:

Harry Sachse

Indian Representatives:

Mason Morisset, attorney
Charlie Peterson
Gene Parker
Forrest Kinley

ACTIONS AGREED UPON

1. General

It was agreed that the defense and protection of Indian treaty fishing rights in the instant circumstances and as defined by Judge Boldt are a part of the trust responsibilities which the United States Government bears.

2. Interim Measures

It was agreed that the representatives of the Departments of State and Commerce would orally instruct the U.S. Members of the International Pacific Salmon Fisheries Commission (IPSFC) to raise again, at the July 12 meeting of the Commission, the proposal earlier made on behalf of American Indian fisherman and denied by the Commission, i. e. that the Commission authorize two extra days of fishing per week during the current season to Indian fisherman in their usual and accustomed places in order to permit compliance

with the U.S. v Washington decision. It was further agreed that these instructions would include reference to the White House meeting and to the possibility, if necessary, that this matter might have to be raised at a government to government level between Washington and Ottawa.

3. Longer-Term Measure

The draft proposed IPSFC Regulation attached hereto as Annex A is to be examined first by Mr. Morisset and his Indian colleagues and then, with their comments if any, by the U.S. government officers attending the meeting with the intent that the U.S. Members of the Commission may be instructed to submit it to the plenary Commission as a supplement to standing Commission regulations.

3. Consultation with Indian Representatives

In view of the policy principle about full Indian participation set forth in the President's Message of July 8, 1970:

A. It was agreed that State and Commerce would raise with the U.S. Members of the Commission the question of naming an Indian as a U.S. member of the Advisory Council to the Commission.

B. In the interim before the above step becomes a reality, it was agreed that the U.S. Members of the Commission would be asked to establish an informal consultative relationship between those Members and appropriate representatives of the newly-formed Indian Fisheries Commission (the text of Constitution and By-Laws of the new Indian Fisheries Commission is attached as Annex B).

4. Indian Share of Sockeye Salmon Harvest

As an information item, the Indian representatives provided a table showing the Sockeye Salmon catch of the last three years; it is attached here as Annex C.

Bradley H. Patterson, Jr.

2:00 p. m.
July 11 74

Bradley H. Patterson, Jr.

White House

Larry Aschenbrenner	attorney, Interior Dept.
Stewart Blow	representing State Dept.
William Brewer	general counsel, Commerce Dept.
Harry Sachse	attorney Solicitor General's office, Justice Dept.
Robert Schoning	Commerce Department
William Sullivan	State Department (representing Mr. Blow if he is unable to come to meeting.)
Robert Hutton	Commerce Department
James Brennan	NOAA Commerce
Kent Frizzell	Interior <u>International Pacific Salmon Commission Dispute</u>
Mary Beth West -	State
Mark Feldman	state

Linda Hagge

OEOB

182

2657

182

July 11, 1974

2:30 p.m.

July 11 74

Bradley H. Patterson, Jr.

White House

Mason Morrisott
Gene Parker
Charlie Peterson

Attorney for Indian group
staff of Morrisott law firm
tribesman from Mackah tribe

International Pacific Salmon Commission Dispute

Linda Hagge

OEOB

182

2657

182

July 11, 1974

7/10/74

LINDA --

Clearance is needed for the following persons for the meeting involving the International Pacific Salmon Commission Dispute for Thursday, July 11.

Federal representatives meeting in Room 182 at 2 p.m. will be:

Mr. Larry Aschenbrenner, attorney, Interior Dept.
Mr. Harry Sachse, attorney Solicitor General's office, Justice Dept.
Mr. William Sullivan, State Department (representing Mr. Stewart Blow)
Mr. Robert Schoning, Commerce Department
Mr. William Brewer, general counsel, Commerce Department

(Commerce may have an additional representative in the morning; if Mr. Blow recovers from his illness he may be in attendance)

Indian representatives meeting in Room 182 at 2:30 p.m. will be:

Mr. Mason Morrisott, attorney for Indian group
Mr. Charlie Peterson, tribesman from Mackah tribe
Mr. Gene Parker, staff of Morrisott law firm

--JMS *JMS*





United States Department of the Interior

OFFICE OF THE SOLICITOR

PORTLAND REGION, 1002 N. E. HOLLADAY ST.
P. O. Box 3621, Portland, Oregon 97208

July 31, 1974

In reply refer to: **GDD**

Mr. Bradley H. Patterson, Jr.
The White House
Washington, D. C. 20501

Re: U. S. v. Washington--International Pacific Salmon
Fisheries Commission problem

Dear Mr. Patterson:

Enclosed for your information are copies of the depositions of Thor C. Tollefson and Donald Johnson, U. S. Commissioners on the IPSFC, taken in Seattle, Washington, in connection with this matter.

Very truly yours,

For the Regional Solicitor

George D. Dysart
Assistant Regional Solicitor

Enclosures



September 19, 1974

MEMORANDUM FOR:

ATTENDEES

SUBJECT:

September 18, 1974, Meeting on
Northwest Fisheries and Indian
Trust Rights

1. Allocation of the Fish and Wildlife Service's Extra \$690,000

Assistant Secretary Reed notified the meeting that these funds would be split up among the Service, the Indians and the State of Washington and denied an allegation that all these funds would be allocated to the State alone. He confirmed that the USFWS Regional Director had been instructed to consult with State and Indian leaders about the allocation and invited Mr. Kinley, on behalf of the Indian Fisheries Commission, to let him know, after the coming tripartite meeting, what the IFC's recommendations would be concerning the final allocation.

2. BIA Support for Indian Fisheries Management

Mr. McDonald agreed to arrange for a meeting this week between the Indian Fisheries representatives and the appropriate BIA budget officers to discuss the allocation of the additional BIA funds which the Congress has approved, and also to review the question of FY 1976 recommendations.

3. Membership of the Advisory Committee to the International Pacific Salmon Fisheries Commission

State will check to ascertain what the procedures are for getting an additional member added to the U.S. section of the Advisory Committee, i. e. an Indian representative.



4. The 1975 Fishing Season

Mr. Kinley assured the meeting that he and his colleagues have drafted and will present, at the meeting with the U.S. Commissioners on September 28, specific proposed Commission regulations for the 1975 season. He described them as meeting what seemed to be the agreed objective: providing general flexibility for the responsible authorities on the U.S. side staying in conformity with the International Convention, to go ahead and make internal U.S. arrangements which will, in turn, enable compliance with the Boldt decision. Mr. Kinley agreed to circulate copies of his proposed regulations to the principal attendees at the meeting.

5. The Anadromous Fish Act

In answer to an inquiry, the NOAA representative indicated that the Act does permit direct grants to federally recognized Indian groups providing that the latter's proposals meet the statutory program requirements. A review will be made of this eligibility and any proposals submitted, especially for FY 1976. Mr. Patterson confirmed that it was government policy to have federally recognized tribal governments be direct recipients of domestic assistance programs, and not force such tribal governments to receive this federal assistance through State governments. This is evidenced in a number of recent or pending legislative actions.

6. List of Questions

At the conclusion of the meeting, the Indian representatives made available a list of questions which had been prepared earlier but not circulated; it was agreed that they would be circulated, attached here, for the attention of the attendees.

Bradley H. Patterson, Jr.

LIST OF ATTENDEES
September 18, 1974
Northwest Fisheries and Indian Trust
Rights

<u>NAME</u>	<u>AGENCY</u>	<u>PHONE</u>
Brad Patterson	W. H.	456-2657
Nat Reed	Interior	343-4416
Lee Talbot	CEQ	382-1254
Guy R. McMinds	NWIFC	(206) 276-4471
Donald Dworsky	OMB	395-4993
Ted Perry	FWS	343-4767
Mike Spear	FWS	343-4767
Michele Metrisko	Interior	343-4344
F. L. Kinley	NWIFC	(206) 276-4471
Edward S. Lazowska	Justice	739-2736
Bruce C. Rashow	Justice	739-2779
John H. Dunnigan	NOAA	(206) 442-4140
James W. Brennan	NOAA	967-3043
Hubert A. Becker	Solicitor's Office	343-9331
Sam St. Arnold	BIA	343-9468
Don McDonald	BIA	343-5704
Howard Bergstrom	OMB	395-4993
William L. Sullivan, Jr.	State	632-2335

Al Burt	State	632-1727
Marshall M. Cutsforth	BIA	258-2651
Charles Peterson	NWIFC	645-2411 (206)
Hank Adams	NWIFC	(206) 486-1793
Al Powers	OMB	395-4993



September 19, 1974

MEMORANDUM FOR:

ATTENDEES

SUBJECT:

September 18, 1974, Meeting on
Northwest Fisheries and Indian
Trust Rights

1. Allocation of the Fish and Wildlife Service's Extra \$690,000

Assistant Secretary Reed notified the meeting that these funds would be split up among the Service, the Indians and the State of Washington and denied an allegation that all those funds would be allocated to the State alone. He confirmed that the USFWS Regional Director had been instructed to consult with State and Indian leaders about the allocation and invited Mr. Kinley, on behalf of the Indian Fisheries Commission, to let him know, after the coming tripartite meeting, what the IFC's recommendations would be concerning the final allocation.

2. BIA Support for Indian Fisheries Management

Mr. McDonald agreed to arrange for a meeting this week between the Indian Fisheries representatives and the appropriate BIA budget officers to discuss the allocation of the additional BIA funds which the Congress has approved, and also to review the question of FY 1976 recommendations.

3. Membership of the Advisory Committee to the International Pacific Salmon Fisheries Commission

State will check to ascertain what the procedures are for getting an additional member added to the U.S. section of the Advisory Committee, i. e. an Indian representative.



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Mr. Kinley assured the meeting that he and his colleagues have drafted and will present, at the meeting with the U.S. Commissioners on September 28, specific proposed Commission regulations for the 1975 season. He described them as meeting what seemed to be the agreed objective: providing general flexibility for the responsible authorities on the U.S. side staying in conformity with the International Convention, to go ahead and make internal U.S. arrangements which will, in turn, enable compliance with the Boldt decision. Mr. Kinley agreed to circulate copies of his proposed regulations to the principal attendees at the meeting.

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6. List of Questions

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Bradley H. Patterson, Jr.

Northwest Salmon Fisheries

1400

September 18

74

Bradley H. Patterson, Jr.

White House

Larry Aschenbrenner for Reed Chambers

James Brennan for Robert Schoning (Commerce)

Alanson Burt State Department (replaced Steward Blow)

Jack Dunnegan for Robert Schoning

Ed Lazowska for Wally Johnson

Dan McDonald for Morris Thompson

Michael Metrinko

L. Edward Perry for Nat Reed

Al Powers for Frank Zarb

Bruce Raskhow for Wally Johnson

Nathaniel Reed Department of the Interior (can only stay for a short time)

Sam St. Arnold for Morris Thompson (in Seneca's Office)

Mike Spear for Nat Reed (and Lyn Greenwealt)

Eugene Suarez for Morris Thompson

Hank Adams
Forest Kinnley

Guy McMinds
Charlie Peterson

William Rodgers

Linda Hagge

OEOB

182

2657

445

September 18, 1974

Additions: Marshall Cutsforth
Lee Talbot

Am
445

Wed 10 Fri

THE WHITE HOUSE
WASHINGTON

OK BHP
No LG

OK ✓
Larry Aschert
343-1111
343-6767
4

Betty Reed No Chambers Wed 2 PM 9/18

Pat Whitaker No 183-4423

Wed
Jhus

MR. Ames OK Mad Reed ✓ 183-4417
Lorraine hym. No Renewal
Shirley Schoning No
Joan Barb No 6186

J. Edward Perry
Mike Spear
343-4717 2403

Robert Commerce 343-4007
Al Powers ✓
Ed Lazowska
Bruce Raskhow ✓

Wally No Johnson 187 739-2701

Morris No Thompson 183-4174 7678

State ? (Stewart Row's Successor)
655-4000
Mary Ann
Alanson Burt ✓

Northwest Salmon Fisheries
✓ Sam St. Arnold ✓ (Seneca) BIA

- 2 Forest Kirtley ✓
- 1 Hank Adams ✓
- 4 Charlie Peterson
- 3 Guy Mc Minds
- 5 William Rodgers

James Brennan ✓
 967-3043 Legal Office

Jack Dunnegan ✓
 Seattle Legal Office

Michael Metrinko ✓ 225 1575

Dan McDonald ✓
 Tribal Res. Dev.

Eugene Suarez ✓
 Law

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Al Burt Dept. of State

632-1727

Marshall M. Cutsforth BIA
Crewett, Washington

258-2651

Charles Peterson Assoc. Ind. Fish Comm., 645-2411

Hank Adams - Coord. - NWLFC ²⁰⁶ 486-1793

Al Power

OMB

395-4993

THE WHITE HOUSE

WASHINGTON

September 19, 1974

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ATTENDEES

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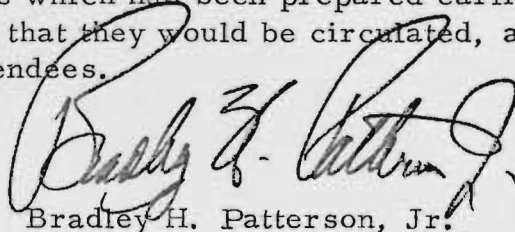
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Bradley H. Patterson, Jr.



Purposes of Discussions with Federal Officials:

The several Treaty Councils and Tribes under the Treaties of Quinault, Makah, Medicine Creek, Point No Point, and Point Elliott have collectively charged the Northwest Indian Fisheries Commission with the responsibility of evaluating and acting upon certain emergent issues of critical importance to Indian people of the Pacific Northwest relating to tribal treaty rights fishing and valued fish resources.

Issues and questions which require discussion, clarification, direction, resolution, or formulation of commitments, include:

1. What shall be the extent and nature of federal commitments for assistance to Indian Tribes and for implementing the Boldt Decision on treaty Indian rights?
2. What are the existing and future Indian tribal needs -- for federal budgetary support and for scientific professional expertise and technical assistance -- for carrying out the Tribes' management responsibilities for fish resources?
3. What are the present tribal needs for biological services and management assistances from the U.S. Fish & Wildlife Service and its Northwest Fisheries Services Program (headquartered at Tumwater, Washington), and how long will their program services be needed by the Tribes?
4. Why was there a dramatic congressional cutback in Boldt Implementation Funds for BIA and Indian Tribes as requested by the (Nixon) Administration, and what will happen to those funds (\$690,000) specifically requested for the USF&WS Northwest Fisheries Program's continued services to Washington and Oregon Indian Tribes, and appropriated by the Congress?
5. Has a covert policy become operational in the Interior Department, with other Administration and Congressional support, to defeat the effects of the Boldt Decision, to deny Indian Tribes and people the full benefit of their rights under the treaties, and to prevent the Tribes' positive assumption of major management responsibilities or control over their separate and inter-related fish resources?
6. What federal funding support is actually needed and justified for Washington State fish and game agencies for implementation of the Boldt Decision; for rehabilitation and development of fish resources; and for their own management responsibilities? Can needed funds for services and assistances to Indian tribes, as now available in limited measure, justifiably be diverted to the undefined and unqualified requests of these State agencies? If diverted away from tribal programming needs, what will be the impact upon the tribal rights and affected fish resources?

7. What is the import of the treaty fishing rights to the Indian people of the Pacific Northwest? The Boldt Decision ruled that major readjustments in the management and resource allocation systems, which had operated with near-total disregard of the Indian treaty rights, are necessary. How can the required readjustments and reallocations best be achieved?
8. What standing should the Northwest Indian Fisheries Commission have in relationships to federal, state, and international agencies and decision-making bodies; and what role is expected of the NWIFC by the Indian Tribes and Treaty Councils which have formed and organized it?
9. What considerations argue against the State of Washington's exercise of absolute control and primary management responsibility for all off-reservation Indian fish resources and fishing activities? What is the State's record in the management of salmon and steelhead resources, and what have the State agencies done with the public funding resources previously available to them for management and maintenance of fish resources?
10. What will be the impact upon the Indian tribes and communities if the operative designs to defeat the Boldt Decision and to again deny Indian people the benefit of their treaty resource and tribal governmental rights are successful?

FOCUS OF TRIBAL AND NWIFC CONCERNS:

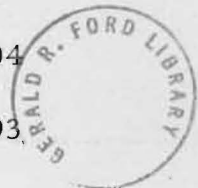
Indian concerns and questions regarding future federal actions, which may curtail needed assistances in tribal fish management programs -- and which may be harmful to Indian rights and resources, or inimical to our known interests -- have been heightened by several recent actions and statements of Interior Department officials.

After the Boldt Decisions was first issued, Indian people were encouraged by the immediate steps being taken by federal officials in the Administration and Interior Department to implement its requirements and effects. In particular, the moves to meet a post-trial federal commitment to provide necessary scientific and biological assistances for tribal fish management and self-regulation programs were heartening.

Subsequent actions by the Interior Secretary and Regional Office of the U.S. Fish & Wildlife Service (Technical Assistance) appeared to transfer priority in support and assistance to Washington State agencies. Departmental accounts of a meeting between Secretary Morton and State officials clearly indicated that the Interior Department was prepared to assume a posture of opposition to the strengthened Indian rights and the tribal or inter-tribal role in the management of fish resources./1 The Secretary's agreement with State game and fish departmental directors that there should be no Indian role in the management of fish resources, and no additional federal commitments to Indian salmon or steelhead hatcheries, were particularly distressing. The Secretary's characterization of the unfairness of the Boldt Decision to non-Indians has operated against its implementation.

LIST OF ATTENDEES
September 18, 1974
Northwest Fisheries and Indian Trust
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