



# Northwest Indian Fisheries Commission

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**TESTIMONY OF BILLY FRANK, JR., CHAIRMAN  
NORTHWEST INDIAN FISHERIES COMMISSION  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
COMMERCE, JUSTICE, SCIENCE AND RELATED AGENCIES  
ON THE FISCAL YEAR 2013 BUDGET FOR THE  
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION  
March 22, 2012**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide testimony on the Department of Commerce Fiscal Year (FY) 2013 appropriations. My name is Billy Frank, Jr. and I am the Chairman of the Northwest Indian Fisheries Commission (NWIFC). The NWIFC is comprised of the twenty tribes that are party to the *United States vs. Washington*<sup>1</sup> (*U.S. vs. Washington*). We support funding for the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) and National Ocean Service (NOS). We are identifying four specific funding needs:

## **SUMMARY OF FY 2013 APPROPRIATIONS REQUEST**

### **NWIFC Specific Funding Requests:**

- ❑ **\$110 million for the Pacific Coastal Salmon Recovery Fund (NOAA/National Marine Fisheries Service)**
- ❑ **\$20 million for the Regional Ocean Partnership Grants Program (NOAA/National Ocean Service)**
- ❑ **\$3.0 million for the Pacific Salmon Treaty Chinook Annex (NOAA/National Marine Fisheries Service)**
- ❑ **\$16 million for the Mitchell Act Hatchery Program (NOAA/National Marine Fisheries Service)**

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

We also want to bring 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. We have repeatedly called on federal government to implement their fiduciary duties by better protecting

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<sup>1</sup> *United States vs. Washington*, Boldt Decision (1974) reaffirmed Western Washington Tribes' treaty fishing rights.

salmon habitat. The federal government has a trust responsibility to the tribes and the tribes' treaties are constitutionally-protected. By fulfilling these federal obligations and implementing our requested changes, I have no doubt that we will recover the salmon populations. It is imperative that we are successful with this initiative as salmon are critical to tribal cultures, traditions and our economies.

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. vs. 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.

Of particular interest to us is the Pacific Coastal Salmon Recovery Fund (PCSRF). 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 appreciate a number of the National Ocean Policy initiatives that support key federal, state and tribal partnerships. Our specific requests are further described below.

## **JUSTIFICATION OF REQUESTS**

### **\$110 Million for the Pacific Coastal Salmon Recovery Fund**

The Pacific Coastal Salmon Recovery Fund 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 seeks to aid the conservation, restoration and sustainability of Pacific salmon and their habitats by financially supporting and leveraging local and regional efforts. Recognizing the need for flexibility among tribes and the states to respond to salmon recovery priorities in their watersheds, Congress initially provided funds for salmon habitat restoration, salmon stock enhancement, salmon research, and implementation of the 1999 Pacific Salmon Treaty Agreement between the U.S. and Canada. PCSRF is making a significant contribution to the recovery of wild salmon throughout the region.

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. vs. Washington* and *Hoh vs. Baldrige*<sup>2</sup>. These funds will also support policy and technical capacities within tribal resource management departments to plan, implement, and monitor recovery activities.

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<sup>2</sup> *Hoh vs. Baldrige* - A federal court ruling that required fisheries management on a river-by-river basis.

It is for these reasons that the tribes strongly support the Pacific Coastal Salmon Recovery Fund. 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 began the implementation of the ESA-listed Puget Sound Chinook Recovery Plan approved by NOAA.

Unfortunately, the PCSRF monies have decreased over the past decade from the FY 2002 amount of \$110 million. Restoration of this line item in FY 2013 to the \$110 million level will support the original intent of Congress and enable the federal government to fulfill its obligations to salmon recovery and the treaty fishing rights of the tribes.

### **\$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 coast of Washington. They have pioneered cooperative partnerships with the state of Washington and the federal government in an effort to advance the management practices in the coastal waters. However, to have an effective partnership, the tribes and their partners need additional 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. In addition to this partnership with the Marine Sanctuary Program, the four tribes have proposed a mechanism by which they can effectively engage with the West Coast Governors' Agreement for Ocean Health to create a regional ocean planning group for the west coast that is representative of the states and sovereign tribal governments with an interest in the ocean.

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.

For the tribes to participate in this regional ocean planning body, and 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. The Regional Ocean Partnership Grants program, within the National Ocean Service Coastal Management account, would be an ideal program to support tribal participation with the West Coast Governors' Agreement to address ocean governance and coastal/marine spatial planning issues.

In addition, the economic value associated with effective marine resource protection is huge. Not only are marine areas crucial for our natural resources and those that use them – they are bridges of commerce between nations and continents. 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.

**\$ 3.0 Million for the Pacific Salmon Treaty 2008 Chinook Annex**

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.

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 2008 update of the treaty gave additional protection to weak runs of Chinook salmon returning to Puget Sound rivers. The update provided compensation to Alaskan fishermen for lost fishing opportunities, while also funding habitat restoration in the Puget Sound region.

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.

We support the FY 2013 NOAA Fisheries budget which includes \$3.0 million to implement the 2008 Pacific Salmon Treaty Chinook Annex. Specifically, the funds would be used for Coded-Wire-Tag (CWT) Program Improvements (\$1.5 million) and Puget Sound Critical Stocks Augmentation (\$1.5 million).

**\$16 Million for the Mitchell Act Hatchery Program**

Salmon produced by the Mitchell Act hatcheries on the lower Columbia River are critically important in that they provide significant harvest opportunities for both Indian and non-Indian fisheries off the coast of Washington. This hatchery production is intended to mitigate for the lost production caused by the hydropower dam system on the Columbia River. This hatchery production is also important in that it dampens the impact of Canadian fisheries under the terms of the PST Chinook Annex on Puget Sound and coastal stocks. This funding provides for the operations of this important hatchery program and is required to mitigate for the federal hydropower system on the Columbia River.

**CONCLUSION**

We are sensitive to the budget challenges that Congress faces. Still, we urge you to increase the allocation and appropriations that can support priority ecosystem management initiatives. 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.

We are facing many environmental and natural resource management challenges in the Pacific Northwest caused by human population expansion and urban sprawl. Those challenges include increased pollution problems ranging from storm water runoff to de-oxygenated or “dead” areas in the Hood Canal, parts of Puget Sound and in the Pacific Ocean. The pathway to the future is clear to us. Federal, state and tribal governments must strengthen our common bond and move forward with the determination and vigor it will take to preserve our heritage.

Western Washington tribes are leaders in protecting and sustaining our natural resources. The tribes possess the legal authority, and the technical and policy expertise. They effectively manage programs to confront the challenges that face our region and the nation. The activities and functions the tribes perform benefit all citizens of the state of Washington and U.S.

The tribes are strategically located in each of the major watersheds, and no other group of people is more knowledgeable about the natural resources. No one else so deeply depends on the resources for their cultural, spiritual and economic survival. 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.

Together, we must focus on the needs of our children, with an eye on the lessons of the past. We ask for Congress to continue to support our efforts to protect and restore our great natural heritage and support our funding requests. Thank you.