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Landmark salmon decision left a legacy of science

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Dan Bates / Herald file photo

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

By [Bill Sheets](#), Herald Writer

TULALIP — Before the landmark [Boldt decision in 1974](#), tribal anglers had fished alongside non-Indian fishermen for years.

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

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

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

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

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

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

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

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

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

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

On the anniversary of the ruling, “I will fly my flag at half-mast because that’s when I became a second-class citizen,” said Bob Heirman, of Snohomish, secretary treasurer of the [Snohomish Sportsmen’s Club](#).

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

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

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

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

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

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

The Boldt decision led to the [Puget Sound Salmon Management Plan](#), a blueprint for managing fish stocks. The Department of Fish and Wildlife staff grew, with inspectors, scientists and others jokingly called “Boldt babies,” Pottillo said.

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

Now, commercial fisheries have mostly left Puget Sound for the open ocean and the issue is tribal catch versus sport takes, Pottillo said.

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

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

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

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

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

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

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

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

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

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

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

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

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

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