

## U.S. v. Oregon and Columbia River Fisheries

**F**ISHERIES IN THE COLUMBIA RIVER have been managed under *U.S. v Oregon* court orders since 1969, when U.S. District Court Judge Robert Belloni ruled that state management practices did not adequately address tribal fishing rights. Since 1977, parties to the case have developed a series of fisheries management plans, designed not only to ensure an equitable sharing of the harvest but also to rebuild weak salmon and steelhead runs originating in the Columbia River above Bonneville Dam.

In August 2008, the court approved a new 10-year Columbia River Fish Management Plan that details catch-sharing responsibilities, harvest guidelines and strategies for rebuilding weak runs. One change under the new agreement is that fall fisheries for salmon and steelhead, like most other fisheries, will be managed according to stock abundance, rather than on fixed harvest levels. The new plan also adjusted the treaty Indian/non-treaty allocation of the allowable impact on naturally produced upriver spring Chinook salmon. The adjustment results in a higher maximum allowable impact – 2.7% compared to 2.0% under the previous agreement – in non-tribal recreational and commercial fisheries when runs are large, and a reduced impact below 2% when runs are medium or small.

Management agreements developed under *U.S. v. Oregon* focus on upriver stocks, but they provide a framework for fisheries throughout the Columbia River. The new agreement establishes harvest rates for salmon and steelhead that will be in place through 2017.

### **Management Plans under *U.S. v. Oregon***

In 1968 court action was brought by the United States and Columbia River treaty tribes against Oregon, challenging state management of Columbia River salmon and steelhead. The parties to *U.S. v Oregon* came to include the states of Washington, Oregon and Idaho, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Bureau of Indian Affairs, and the Yakama, Warm Springs, Umatilla, Nez Perce and Shoshone-Bannock Indian governments.

Finding that the states' management practices failed to meet the tribes' treaty fishing rights, Judge Robert Belloni ruled that tribes were entitled to a fair and equitable share of the harvestable portion of the runs – defined in 1974 as an even split. The first Columbia River Fish Management Plan was a five-year agreement endorsed by federal court in 1977. A federal judge ordered the development of a new management plan in 1983. After five years of negotiations, the parties to *U.S v. Oregon* reached agreement on a plan, which was approved by the federal court in 1988.

Key goals of that management plan were to rebuild weak fish runs to full productivity and fairly share the available harvest of Columbia River fish originating above Bonneville Dam between treaty Indian and non-Indian fisheries. The plan expired in June of 1999, after which the parties to the case negotiated a series of short-term agreements to govern harvest and production. A new 10-year agreement was completed and approved by the court in August of this year.

**The TAC and the Columbia River Compact**

All parties to *U.S. v. Oregon* are represented on the Technical Advisory Committee (TAC), which was created to review information relative to the management of Columbia River fisheries for consistency with the management plan. The TAC’s responsibilities include developing run-size forecasts – both pre-season and in-season – and providing biological assessments to the National Marine Fisheries Service (NMFS) relative to Columbia River fisheries and impacts to stocks listed under the federal Endangered Species Act (ESA).

This information also provides a foundation for management decisions reached under the Columbia River Compact, a congressionally-ratified interstate agreement between Oregon and Washington. Under the terms of the Columbia River Compact, the two states agreed in 1915 to adopt or amend laws for the conservation of fish in the Columbia River where it forms their common boundary only with both states’ mutual consent.

Through the Compact, the two states set commercial and tribal fisheries in the Columbia River. Recreational fisheries are set by the two states during a Compact/Joint State hearing. Management plans developed under *U.S. v. Oregon* provide the foundation for pre-season and in-season fish management decisions by the Compact.

**Predicted and Actual Upriver Spring Chinook Runs**

<u>Year</u>	<u>Predicted</u>	<u>Actual</u>	<u>Recalibrated<sup>1</sup></u>
2000	134,000	178,600	186,100
2001	364,600	416,500	437,900
2002	333,700	295,100	331,300
2003	145,400	208,900	242,600
2004	360,700	193,400	221,600
2005	254,100	106,900	106,900
2006	88,400	132,100	132,100
2007	78,500	86,000	86,000

<sup>1</sup> Run sizes calculated including the timeframe of June 1-15.

## Spring Management Period Harvest Rate Schedule (2008-2017 U.S. v. Oregon Agreement)

<b>Harvest Rate Schedule for Chinook in Spring Management Period</b>					
Total Upriver Spring and Snake River Summer Chinook Run Size <sup>6</sup>	Snake River Natural Spring/Summer Chinook Run Size <sup>1</sup>	Treaty Zone 6 Total Harvest Rate <sup>2,5</sup>	Non-Treaty Natural Harvest Rate <sup>3</sup>	Total Natural Harvest Rate <sup>4</sup>	Non-Treaty Natural Limited Harvest Rate <sup>4</sup>
<27,000	<2,700	5.0%	<0.5%	<5.5%	0.5%
27,000	2,700	5.0%	0.5%	5.5%	0.5%
33,000	3,300	5.0%	1.0%	6.0%	0.5%
44,000	4,400	6.0%	1.0%	7.0%	0.5%
55,000	5,500	7.0%	1.5%	8.5%	1.0%
82,000	8,200	7.4%	1.6%	9.0%	1.5%
109,000	10,900	8.3%	1.7%	10.0%	
141,000	14,100	9.1%	1.9%	11.0%	
217,000	21,700	10.0%	2.0%	12.0%	
271,000	27,100	10.8%	2.2%	13.0%	
326,000	32,600	11.7%	2.3%	14.0%	
380,000	38,000	12.5%	2.5%	15.0%	
434,000	43,400	13.4%	2.6%	16.0%	
488,000	48,800	14.3%	2.7%	17.0%	

**Footnotes.**

1. If the Snake River natural spring/summer forecast is less than 10% of the total upriver run size, the allowable mortality rate will be based on the Snake River natural spring/summer Chinook run size. In the event the total forecast is less than 27,000 or the Snake River natural spring/summer forecast is less than 2,700, Oregon and Washington would keep their mortality rate below 0.5% and attempt to keep actual mortalities as close to zero as possible while maintaining minimal fisheries targeting other harvestable runs.

2. Treaty Fisheries include: Zone 6 Ceremonial, subsistence, and commercial fisheries from January 1-June 15. Harvest impacts in the Bonneville Pool tributary fisheries may be included if TAC analysis shows the impacts have increased from the background levels.

3. Non-Treaty Fisheries include: Commercial and recreational fisheries in Zones 1-5 and mainstem recreational fisheries from Bonneville Dam upstream to the Hwy 395 Bridge in the Tri-Cities and commercial and recreation SAFE (Selective Areas Fisheries Evaluation) fisheries from January 1-June 15; Wanapum tribal fisheries, and Snake River mainstem recreational fisheries upstream to the Washington-Idaho border from April through June. Harvest impacts in the Bonneville Pool tributary fisheries may be included if TAC analysis shows the impacts have increased from the background levels.

4. If the Upper Columbia River natural spring Chinook forecast is less than 1,000, then the total allowable mortality for treaty and non-treaty fisheries combined would be restricted to 9% or less. Whenever Upper Columbia River natural fish restrict the total allowable mortality rate to 9% or less, then non-treaty fisheries would transfer 0.5% harvest rate to treaty fisheries. In no event would non-treaty fisheries go below 0.5% harvest rate.

5. The Treaty Tribes and the States of Oregon and Washington may agree to a fishery for the Treaty Tribes below Bonneville Dam not to exceed the harvest rates provided for in this Agreement.

6. If the total in river run is predicted to exceed 380,000, the Parties agree to consider increasing the total allowed harvest rate and to reinstate consultation with NOAA Fisheries if necessary.

**Summer Management Period Chinook Harvest Rate Schedule**  
(2008-2017 U.S. v. Oregon Agreement)

River Mouth Run Size	Max Treaty Total Harvest Rate	Treaty Harvest	Max Non-Treaty Total Harvest Rate	Non-Treaty Harvest	Escapement Past Fisheries
5,000	5.0%	250	2.0%	<100	4,650
7,500	5.0%	375	2.7%	<200	6,925
10,000	5.0%	500	2.0%	<200	9,300
12,500	5.0%	625	1.6%	<200	11,675
15,000	5.0%	750	1.3%	<200	14,050
16,000	10.0%	1,600	5.0%	800	13,600
17,500	10.0%	1,750	5.0%	875	14,875
20,000	10.0%	2,000	5.0%	1,000	17,000
22,500	10.0%	2,250	5.0%	1,125	19,125
25,000	10.0%	2,500	5.0%	1,250	21,250
27,500	10.0%	2,750	5.0%	1,375	23,375
29,000	10.0%	2,900	5.0-6.0%	1,450-1,740	≥24,360
30,000	10.0%	3,000	5.0-6.0%	1,500-1,800	≥25,200
32,500	10.0%	3,250	7.0%	2,275	26,975
35,000	10.0%	3,500	7.0%	2,450	29,050
36,250	10.0%	3,625	10.0%	3,625	29,000
37,500	11.3%	4,250	11.3%	4,250	29,000
40,000	13.8%	5,500	13.8%	5,500	29,000
42,500	15.9%	6,750	15.9%	6,750	29,000
45,000	17.8%	8,000	17.8%	8,000	29,000
47,500	19.5%	9,250	19.5%	9,250	29,000
50,000	21.0%	10,500	21.0%	10,500	29,000
52,500	21.8%	11,438	21.8%	11,438	29,625
55,000	22.5%	12,375	22.5%	12,375	30,250
57,500	23.2%	13,313	23.2%	13,313	30,875
60,000	23.8%	14,250	23.8%	14,250	31,500
62,500	24.3%	15,188	24.3%	15,188	32,125
65,000	24.8%	16,125	24.8%	16,125	32,750
67,500	25.3%	17,063	25.3%	17,063	33,375
70,000	25.7%	18,000	25.7%	18,000	34,000
72,500	26.1%	18,938	26.1%	18,938	34,625
75,000	26.5%	19,875	26.5%	19,875	35,250
77,500	26.9%	20,813	26.9%	20,813	35,875
80,000	27.2%	21,750	27.2%	21,750	36,500
82,500	27.5%	22,688	27.5%	22,688	37,125
85,000	27.8%	23,625	27.8%	23,625	37,750
87,500	28.1%	24,563	28.1%	24,563	38,375
90,000	28.3%	25,500	28.3%	25,500	39,000
92,500	28.6%	26,438	28.6%	26,438	39,625
95,000	28.8%	27,375	28.8%	27,375	40,250
97,500	29.0%	28,313	29.0%	28,313	40,875
100,000	29.3%	29,250	29.3%	29,250	41,500

See footnotes on the next page

**Footnotes for Upper Columbia River Summer Chinook Harvest Rate Schedule:**

1. Fisheries included are all Non-treaty fisheries in the Columbia River mainstem below McNary Dam and all Treaty fisheries in Zone 6 between June 16 and July 31 along with any treaty and non-treaty fisheries impacting upper Columbia River summer Chinook in the mainstem Columbia and tributaries above McNary Dam. Wanapum and Colville fisheries are included in the non-treaty share. Non-treaty ocean fisheries south of the U.S.-Canada border are included in the non-treaty share at run sizes above 29,000. At run sizes below 29,000, the non-treaty harvest impacts shown are for in-river fisheries. The Treaty Tribes and the States of Oregon and Washington may agree to a fishery for the Treaty Tribes below Bonneville Dam not to exceed the harvest rates provided for in this Agreement.
2. The river mouth interim management goal is 29,000 fish. This equates to a 20,000 natural and hatchery escapement goal.
3. For runs less than 16,000, the treaty harvest on the total summer period Chinook river mouth run size will be no more than 5%.
4. For runs less than 5,000, the non-treaty harvest on the total summer period Chinook river mouth run size will be less than 100 Chinook.
5. For runs sizes of 5,000, but less than 16,000, the non-treaty total harvest rate on summer period Chinook will be less than 200 Chinook.
6. For run sizes of 16,000 to 36,250 (125% of the 29,000 goal), the treaty harvest rate will be limited to 10%. For run sizes of 16,000 to 28,999, the non-treaty harvest will be limited to 5%. For run sizes of 29,000-36,249, the non-treaty harvest rate will be stepped. For run sizes of 29,000 to 32,499, the non-treaty harvest rate will be limited to 5-6%. For run sizes of 32,500 to less than 36,249, the non-treaty harvest rate will be limited to 7%.
7. For run sizes of 36,250 to 50,000, the treaty and non-treaty harvest rates will each be 50% of the total harvestable number of fish calculated as the river mouth run size minus 29,000.
8. For run sizes above 50,000, higher numbers of fish will be allowed to escape fisheries. The harvestable number of fish will be adjusted to include 75% of the margin of fish above 50,000. The treaty and non-treaty harvest rates will each be 50% of the total harvestable number of fish calculated by the following formula:  $(0.75 * (\text{Runsize} - 50,000)) + 21,000$ .