

THE SALMON FISHERIES OF THE YAKIMAS

The vast territory originally owned and occupied from time immemorial by the 14 tribes now constituting the Yakima Indian Nation covered an area from Lake Chelan on the north to the Columbia River on the south, and from the Columbia and Snake Rivers on the east, to the main ridge of the Cascade Mountains on the west. The area of this vast domain totaled over 10,800,000 acres of land.

This area constituted the home of the following tribes which were consolidated under the Yakima Treaty of June 9, 1855 to form the Yakima Indian Nation:

Yakima, Palouse, Piquose, Wenatshapam, Klikatat, Klinquit,
Kow-was-say-ee, Li-ay-was, Skin-pah, Wish-ham, Shyiks,
Ochechetes, Kah-milt-pah, Se-ap-cat.

The principal source of subsistence of these Yakima tribes was salmon, and their economy was based largely upon fishing.

Primitive Fisheries Along the Columbia River

In the prehistory past, the Columbia River and its tributaries were dotted with villages of these tribes from the Cascades clear up to Lake Chelan. The most important villages along the Columbia River were those of the Wishram on the north side of the river in the vicinity of The Dalles (the Narrows), and the Skinpah village on the north side of the river at Celilo Falls (Great Falls). Here, as well as at other locations on the Columbia River, both on the north and south banks, for countless years before the advent of the white man to the region, the healthy and stalwart Indians of these tribes lived in peaceful surroundings and in the lap of aboriginal luxury. The salmon that migrated up the river in the spring, summer and fall abounded in untold numbers.* The meadows back from the river's banks gen-

* The Pacific salmon spend part of their lives in the streams and part in the ocean where they make over 95 per cent of their entire growth. The eggs are deposited in the gravel beds of the streams in the late summer and fall and hatch out in the following spring. The young salmon remain in the fresh waters from one to two years and then migrate to the ocean at which time they range from one and one-half to four inches in length. While in the ocean the salmon grow very rapidly and, after a two

erously supplied edible roots of various kinds and farther back at the edge of the wooded areas the berries were always available in the late summer and fall. There are no legends in the tribal lore of these Indians relating the occurrence of pestilence, famine and want along the river.

The breaking of the river's course into many narrow channels between the protruding rocks and small islands together with the rugged falls at the head of the Narrows provided an ideal place for the catching of the salmon. Primitive spears and grab hooks were used by some fishermen but most of the fishing was done with large dip nets 2 to 5 feet in diameter attached to poles ranging from 10 to 25 feet in length. These nets were fished by moving them through or anchoring them just below the surface in the fast and boiling white waters. The salmon were caught in the fast water of the channels as they darted swiftly upstream. They were also caught in the boiling waters below the falls as they charged through these waters in attempts to jump over the falls. Others were caught as they dropped back from the face of the falls in unsuccessful jumps to surmount them. The fishermen worked these nets from projecting rocks and ledges above the narrow channels and from scaffolds built along and over the rocky walls at the falling waters.

Fishing from such precarious positions with a hand operated dip net of giant proportions required great skill and prowess. The impounding and landing of a 30 to 50 and at times 70 pound writhing and fighting salmon was no task for a weakling. Fishing in these waters was very productive for when the salmon were running in great numbers it was a poor fisherman who could not land from 2 to 3 tons of fish in a day. The skillful fishermen contributed most of their catches to the members of their tribes, and in return received great honors for their daring achievements. The

* to four year sojourn there, they return as adults to the streams of their origin to spawn and die. The chinook and blue back salmon are the two most abundant species in the Columbia river. The chinooks are the monarchs of the Pacific salmon and weigh from 20 to 75 pounds when mature. The blue backs are the smallest of the species and seldom attain a greater weight than 5 pounds.

established fishing locations in the channels and at the falls were indisputably the property of the various tribes who pioneered them. These fishing locations were used by these tribes from generation to generation.

The salmon meant more to the Indians than just a source of food. They were looked upon as a gift from the Divine Maker in token of his love for the Indian people. The salmon were and are today a sacred food, second only to the life giving waters, in the "Washeat" religion of the tribes along the river. The most colorful and spiritual celebration of the year was and still is the "Feast of the Salmon" held in the spring when these noble fish make their first appearance in the river. The "Washeat" religion is known in white man's language as the Pom Pom religion. It is still the religion of many Indian families who revere the salmon in their worship as did their ancestors in the primitive days of the past.

The Great Fishing and Trading Center

The salmon were so abundant at this spot on the river that the resident tribes not only preserved large numbers of them for their own use but tons of them for trade with the tribes from far distant places in the surrounding country. The salmon were dried and then pounded into a fine mash commonly known as pemmican. This was stored in grass baskets lined with fish skins which contained from 50 to 100 pounds of the mash. Some of the pemmican had ground roots and berries added to it and formed a very delectable as well as nutritious food.

When Lewis and Clark arrived at the Narrows and Great Falls they found the Indian tribes there dealing in a commerce of barter and trade of extensive proportions. Trading was carried on at both the Narrows and Great Falls. The powerful Wasco Indian tribe controlled the trading on the south side of the Narrows at a location near the present city of The Dalles, Oregon. On the north side of the Narrows the Wishram Indians owned one of the largest trading centers in the area. The Wyam Indians on the south bank at the Great Falls carried on trade with the visiting

tribes and were known for their religious and recreational activities. The Skin-pah or Skein Indians occupied a large village on the north banks of the river just below the Great Falls. Here, active trade took place with the Indian tribes from the north country. While at these great gathering places the visiting Indians took part in religious celebrations, war dances and the spectacular "hand game" or "bone game".

The articles of trade at these marts consisted of deer and buffalo skins, furs of many kinds, various articles of clothing, feathers, shells and trinkets, dried deer and buffalo meat, pemmican, slaves and horses. The Indian tribes to the east and north as well as those from the south and west travelled great distances to this trading center for the purpose of trading in fish and other articles not available to them locally. Trading was carried on mostly in the late summer and fall. The securing of food for the visiting Indians was no problem at such times. The salmon were abundant in the river and roots and berries were available on the hills.

United States Treaty with the Yakima Tribe

On June 9, 1855, the United States executed a treaty with the Yakimas. This treaty ceded to the United States the domain owned by the 14 original tribes above described, and reserved and guaranteed to the Yakima Tribe the lands now comprising the Yakima Reservation.

As a part of the consideration for the vast area ceded by these tribes, the United States promised the Yakimas many economic and social benefits. The treaty provided that the tribes constituting the Yakima Indian Nation move their residence to the lands reserved to them in the treaty within one year after the ratification of the treaty. Annuity payments in services and objects necessary for the Yakimas to establish farms and build homes were provided for; and the United States agreed to erect and establish schools on the reservation with adequate teachers and to erect blacksmith, carpenter, and wagon and plowmakers shops, a sawmill and flouring

mill, and provide ~~for them~~ the necessary personnel and tools to operate them; also to erect a hospital on the reservation and employ a physician, and provide medicines, etc. These annuity provisions were to be in effect for a period of twenty years, in order to assist the Yakimas in changing their way of life and an economy based on fishing and hunting, to one based upon farming and stockraising in order eventually to make themselves self-supporting in conformity to the white man's economy.

One of the most important reservations made by the Yakimas in this treaty was contained in Article 3, which reads in part as follows:

"The exclusive right of taking fish in all the streams, where running through or bordering said reservation, is further secured to said confederated tribes and bands of Indians, as also the right of taking fish at all usual and accustomed places, in common with the citizens of the Territory, and of erecting temporary buildings for curing them; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land."

Although many of the Yakimas removed to the Reservation lands soon after the treaty was executed, and an agent was appointed to manage the affairs of the Yakimas, many of the Indians lingered around their old homes. But finally a large majority of the Indians removed to the Reservation and established homes there.

Some of the Indians had homes on the old village locations and remained there.

Those who made their homes on the reservation traveled to Celilo Falls, Spearfish, and the other old fishing locations along the Columbia River each year during the fishing season to supply themselves with salmon for subsisting them through the winter months.

Settlers Challenge the Yakimas' Rights to their Fisheries

Not long after the Treaty of 1855 white settlements began to appear within the areas ceded by the Indian tribes along the Columbia River. Lands adjacent to the fishing locations of the Yakimas were homesteaded by white settlers, who acquired patents to said lands from the United States.

During the fishing seasons each year the Yakimas from the reservation traveled to the old fishing locations, and set up their camps and drying sheds. Since many Indians traveled on horseback, their horses were pastured on lands adjacent to their campsites and on lands patented by the Government to white settlers.

In an endeavor to prevent the Yakimas from reaching their usual and accustomed fishing location at Spearfish white settlers with a patent from the United States fenced off the areas around these locations. The Yakimas appealed to the United States to protect their fishing rights to this fishery guaranteed to them in the Yakima Treaty of 1855. In 1886 the United States, acting on behalf of the Yakima Tribe, instituted suit in the territorial courts of Washington against a settler to enjoin him from preventing the Yakima Indians from access to their fisheries. The Supreme Court of the Territory of Washington in the following year ordered an injunction issued against the white settler restraining him from further interference with the Yakimas' use of this fishery, and directing him to remove obstructions which were preventing the free exercise of their fishing rights. *United States v. Taylor*, 13 Pac. 333.

Thus the right of the Yakimas to ingress and egress to their fishing locations over lands deeded to white settlers was decided in favor of the Yakima Tribe.

In the case of *United States v. Winans*, 198 U. S. 371, the right of the Yakimas to ingress and egress to their usual and accustomed fishing places over lands deeded to white settlers was again questioned. On May 15, 1905, the United States Supreme Court finally settled this question in favor of the Yakima Tribe. In its decision the United States stated in part as follows:

"The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not much less necessary to the existence of the Indians than the atmosphere they breathed. New conditions came into existence, to which those rights had to be accommodated."

*This and
the first
paragraph
are all one
paragraph*

1—"Only a limitation of them, however, was necessary and intended, not a taking away. In other words, the treaty was not a grant of rights to the Indians, but a grant of rights from them--a reservation of those not granted. And the form of the instrument and its language was adapted to that purpose. Reservations were not of particular parcels of land, and could not be expressed in deeds, as dealings between private individuals. The reservations were in large areas of territory, and the negotiations were with the tribe. They reserved rights, however, to every individual Indian, as though named therein. They imposed a servitude upon every piece of land as though described therein. There was an exclusive right of fishing reserved within certain boundaries. There was a right outside of those boundaries reserved 'in common with citizens of the territory.' As a mere right, it was not exclusive in the Indians. Citizens might share it, but the Indians were secured in its enjoyment by a special provision of means for its exercise. They were given 'the right of taking fish at all usual and accustomed places,' and the right of 'erecting temporary buildings for curing them.' The contingency of the future ownership of the lands, therefore, was foreseen and provided for; in other words, the Indians were given a right in the land--the right of crossing it to the river--the right to occupy it to the extent and for the purpose mentioned. No other conclusion would give effect to the treaty. And the right was intended to be continuing against the United States and its grantees as well as against the state and its grantees. ~~-----~~

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"The extinguishment of the Indian title, opening the land for settlement, and preparing the way for future states, were appropriate to the objects for which the United States held the territory. And surely it was within the competency of the nation to secure to the Indians such a remnant of the great rights they possessed as 'taking fish at all usual and accustomed places.' Nor does it restrain the state unreasonably, if at all, in the regulation of the right. It only fixes in the land such easements as enable the right to be exercised."

In 1916 the United States was again required to protect the fishing rights of the Yakima Tribe reserved in their Treaty of June 9, 1855. The Indians were prevented from using the Wah-sucks or Lone Tree fishery on the Oregon side of the Columbia River near The Dalles, Oregon. The United States, on behalf of the Yakimas, instituted suit to prevent further interference of the right of the Yakimas to use this usual and accustomed fishing location reserved under the Yakima Treaty of 1855.

On March 3, 1919 the United States Supreme Court, in Seufert Bros. Co. v. The United States, 249 U. S. 194, again decided the issue in favor of the Yakimas. The Court stated in part:

~~"The record also shows" "that the Yakima Indians were accustomed to resort habitually to the locations described in the decree for the purposes of fishing at the time the treaty was entered into, and that~~

"The record also shows with sufficient certainty, having regard to the character of evidence which must necessarily be relied upon in such a case, that the members of the tribes designated in the treaty as Yakima Indians, and also Indians from the south side of the river, were accustomed to resort habitually to the locations described in the decree for the purposes of fishing at the time the treaty was entered into, and that they continued to do so to the time of the taking of the evidence in the case, and also that Indians from both sides of the river built houses upon the south bank in which to dry and cure their fish during the fishing season.

* * *

"How the Indians understood this proviso we are considering is not doubtful. During all the years since the treaty was signed they have been accustomed habitually to resort for fishing to the places to which the decree of the lower court applies, and they have shared such places with Indians of other tribes from the south side of the river and with white men. This shows clearly that their understanding of the treaty was that they had the right to resort to these fishing grounds and make use of them in common with other citizens of the United States--and this is the extent of the right that is secured to them by the decree we are asked to revise.

"To restrain the Yakima Indians to fishing on the north side and shore of the river would greatly restrict the comprehensive language of the treaty, which gives them the right 'of taking fish at all usual and accustomed places and of erecting temporary buildings for curing them,' and would substitute for the natural meaning of the expression used--for the meaning which it is proved the Indians, for more than fifty years derived from it--the artificial meaning which might be given to it by the law and by lawyers."

The United States has also vigorously defended the treaty fishing rights of the Yakima Tribe in the Courts of the State of Washington (1916), *State v. Towessnute*, 154 P. 805; *State v. Meninock*, (1921), 197 Pac. 641.

In 1942 the United States Supreme Court, in *Sampson Tulee v. State of Washington*, 315 U. S. 681, again upheld the right of the Yakima Indians under the Treaty of June 9, 1855 to fish in their usual and accustomed fishing places without paying a State license fee.

Therefore, it can be readily seen that when the rights of the Yakima Tribe to fish in their aboriginal fishing locations protected by the Treaty of 1855 have been violated, the Courts have protected the rights of the Indians ~~to do so~~.

Approximately one-third of the members of the Yakima Tribe depend upon fishing today for a livelihood, and their annual income from fish caught at Celilo Falls is considerable. In addition to those who fish commercially for a living, many others fish for subsistence, and dry the salmon for use during the winter months as they did years before the advent of the white man.

Dams vs. Fisheries.

From the treaty time to date there has been an ever increasing march of white men to the great Northwest. The broad valleys of the Columbia River and its tributaries are populated with industrious settlers who turned them into productive areas. Large canning factories were established along the lower Columbia which shipped salmon all over the country, supporting large communities. East of the Cascade Mountains within the area ceded by the Yakima Tribe, where rain is scarce, irrigation was practiced by diverting the water from the streams. The use of these streams for such purpose became so extensive that by the turn of the century many of them were almost completely dried up in the late summer and fall. In the early days large dams for impounding irrigation waters spanned the large tributaries. These dams were not provided with fish ladders, and impeded, and at times of low water completely blocked the upstream migration of the salmon. Furthermore, the fingerling salmon moving downstream on their way from the spawning grounds to the ocean, were led into unscreened irrigation canals, and thence into the fields where they perished by the millions. These practices spelled destruction to the runs of salmon that originally populated these tributaries. The once abundant salmon runs in the Yakima River practically disappeared. The many Indian fishing villages originally nestled along its banks were gradually erased from the landscape and, became memories of the past; and the Indians who formerly depended on the salmon for food, were left almost destitute. The Yakimas, however, continued to use their famous fishing locations along the Columbia River, and particularly at Celilo Falls, where salmon could still be secured in considerable numbers.

The Department of Fisheries of the States of Oregon and Washington, in cooperation with the United States Fish & Wildlife Service, began to be concerned over the depletion of the salmon runs, and inaugurated stricter regulations to conserve them. The effective measures ^{adopted} have helped greatly to prevent the utter destruction of the salmon runs.

With the building of the Grand Coulee Dam in the Columbia River, without fish ladders, large spawning areas in the upper Columbia River were completely blocked off. In 1938 Bonneville Dam was completed across the lower Columbia. Although this dam provided fish ladders for the migration of the adult salmon upstream, no effective means were found to prevent the destruction of a large percentage of the small fingerling salmon passing over the spillway dam and through the turbines at Bonneville Dam. Many usual and accustomed fishing locations of the Yakima Tribe formerly protected by the Yakima Treaty were destroyed and completely inundated by the Bonneville Dam pool. McNary Dam is now completed above Bonneville Dam.

In 1950 Congress authorized the construction of the Dalles Dam across the Columbia River just above the city of The Dalles, Oregon. When this Dam is completed the famous fishing locations of the Yakima Tribe at Celilo Falls, Oregon and vicinity, and the fishing locations on the Washington shore will be destroyed and completely inundated.

The United States has negotiated a settlement with the Yakima Tribe for the loss of its ancient fishing locations which will be destroyed by The Dalles Dam. To the Yakimas no amount of money could adequately compensate them for the loss they will thus sustain. They have looked upon their great fishery as a trust to be used by those now living, and to be handed down as a heritage to each succeeding generation. Celilo Falls is enshrined in the heart of every Yakima as a natural shrine given to him by the Great Creator, as the perpetual insurance against want, enriched by the dedication of this place through the ages by the religious celebrations of their

ancestors who are buried in or near the roar and mist of the falling waters.

Celilo Falls is as sacred to the Yakimas as any cherished shrine of the white men. This site was reserved by the old Yakima Chiefs who reluctantly signed the Treaty of 1855 believing that the solemn guarantee of the United States in this treaty would protect their people in the possession of this sacred place "as long as the great Columbia River flows from the mountains to the sea."

The loss of Celilo Falls may be said to be a sacrifice of the Yakima Tribe upon the altar of progress, and another contribution of this great tribe to the demands of their country - these United States. The loss will deal a severe blow to the culture and lives of this people, for their lives and economy will have to be adjusted to these changed circumstances.

Thus will pass the last remaining of the Northwest's great natural monuments, but the memory will remain in the hearts of the Yakimas until their spirits will go to join their ancestors.

7. CASE NO. 164 involves a claim for the lands lost to the Yakima Tribe through the erroneous allotments of Yakima Reservation lands to persons who were not of the blood of the 14 tribes which compose the Yakima Tribe. These errors were made by allotting agents of the United States.

8. CASE NO. 165 involves a claim for and on behalf of the Wishram Tribe for property lost during the Yakima War of 1856. The camp of these friendly Indians was destroyed by the United States troops by error and the value of the property thus lost by this tribe was never paid to them.

The above cases could result in a money judgment only against the United States, if the Indian Claims Commission decides the issues in favor of the Yakima Tribe.

In cases involving lands no titles will be disturbed in the hands of the present land owners, nor will they be required to defend their titles in the Courts. The disputes will be settled solely between the United States and the Yakima Tribe.

YAKIMA TRIBAL CLAIMS AGAINST THE UNITED STATES

The Yakima Tribe, like many of the other Indian tribes within the territorial limits of the United States, has claims against the United States growing out of the Federal Government's dealings with it.

In order to settle these long standing claims Congress, by Act of August 13, 1946, 60 Stat. 1049, created the Indian Claims Commission, and delegated to it authority to settle finally all of these Indian tribal claims.

The Yakima Tribe, through its attorney, Paul M. Niebell, Esquire, of Washington, D. C., has filed the following claims before the Indian Claims Commission for settlement:

1. CASE NO. 47, or the boundary claim, involves a question of whether the present boundaries of the Yakima Reservation conform to the boundaries described in the Yakima Treaty of June 9, 1855. Certain additional areas are claimed along the northern, western, southwestern, and eastern boundaries of the Yakima Reservation. A decision of the Indian Claims Commission has awarded a finding of liability against the United States for the value of 48,428.15 acres which by error were excluded from the Yakima Reservation.
2. CASE NO. 147 involves a claim for the depletion of the salmon runs in the Columbia River and its tributaries, caused by the construction of Bonneville and other dams, and the consequent loss of income to the Yakima Indian fishermen.
3. CASE NO. 160 involves a claim for the diversion of the waters of the Ahtanum, and the consequent loss of irrigation waters to Indian owned lands within the boundaries of the Yakima Reservation.
4. CASE NO. 161 presents a claim for the true value of 10,800,000 acres of lands in 1855, which the Yakima Tribe was forced to cede to the United States under the Treaty of June 9, 1855, for the nominal consideration of less than five cents an acre.
5. CASE NO. 162 presents a claim for the true value of 23,000 acres of land in 1894 known as the Wenatshapam Fishery tract which the Yakima Tribe was forced to cede to the United States in 1894 for the nominal consideration of \$20,000., or about 87 cents an acre. This tract was reserved to the Yakima Tribe by Article 10 of the Yakima Treaty of June 9, 1855, and consisted of one township of land located at Lake Wenatchee, and including part of that lake and Fish Lake.
6. CASE NO. 163 requests an accounting of the Government's disbursements made in fulfillment of its obligations to the Yakima Tribe under the terms of the Yakima Treaty of June 9, 1855.