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Rebuilding The Once Great Salmon Runs of Swinomish Channel



INTRODUCTION

A petition and claim for just indemnity and fulfillment of obligation and responsibility of the United States Government in the matter of destruction of Swinomish Channel - Skagit River salmon runs. Caused by the United States Corps of Engineers reconstruction of the Skagit River delta channel area in the interest of marine navigation.

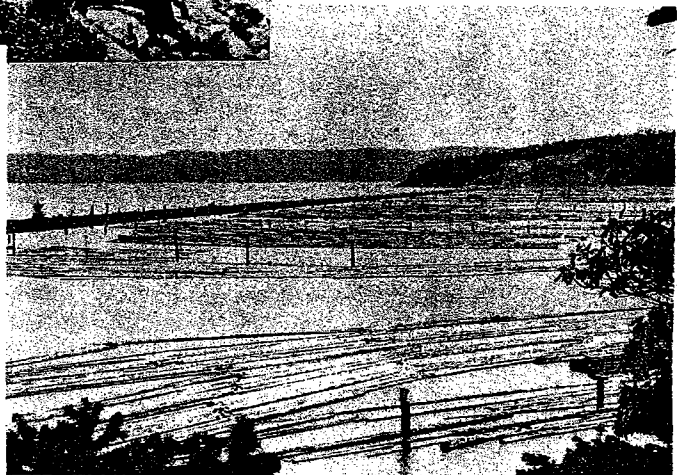
The fishermen, Indian and non-Indian residents of the State of Washington herein described do petition the United States Congress for consideration in fulfillment of a just obligation and responsibility set forth by the neglect and failure of the U.S. Government Services to compensate for lost salmon resources, in compliance with public law, in the building of a rock jetty to divert the water of the Skagit River from Swinomish Channel, Skagit County, Washington in the year 1937.

It is pertinent to the action taken by the United States Congress that historic natural salmon resources of Skagit River waterways, survive, and that fishermen who have suffered damaging effects of a poorly conceived salmon protection facility, built by the U. S. Corps of Army Engineers be corrected and compensated for.

Consideration by the U. S. Congress in the following matter compensating for lost salmon resources will give hope for re-establishment of a valuable segment of income for the Swinomish Indian people and LaConner fishermen.



**McGlinn To Goat Island
Jetty That Killed Off
The Once Great
Swinomish Channel
Salmon Runs**



A review of damage and conditions relating to the building of the Goat Island to McGlynn Island rock jetty by the U.S. Corps of Army Engineers in 1937.

Over the years since the building of the rock jetty by the U. S. Engineers in 1937, shutting off the waters of the Skagit River from Swinomish Channel, many persons have felt the resultant effects of lost economic benefit due to the impairment of salmon resources. The loss to fishermen directly and indirectly caused by the building of this barrier to the passage of migrating salmon to and from the Skagit River and the Swinomish Channel.

At the time the building of the McGlynn-Goat Island rock barrier by Army Engineers, the general public attitude was, aid to marine navigation and the passage of boats, logs, barges and water born traffic through Swinomish Channel would be a great help to water transportation in north Puget Sound; and a benefit to everyone including the fishing industry. The original plan or proposal was to build the rock jetty in the location it now exists, but with a fish way and small boat passage way directly from the Hole-In-The-Wall by the U.S. Corps of Army Engineers designed to pass salmon and small boats having a sufficient water depth at three feet minus tide. The far too narrow gap left in the Jetty for the passage way soon filled up and it takes a 7 foot plus tide for small boat passage. The open passage way designed and built by the Army Engineers in the rock jetty completely failed to serve as a water way intended, and in compliance with Washington law. No effort on the part of the U.S. Engineers since the building of the rock jetty in 1937 has been made to avert the loss to salmon resources, a resultant loss of at least one half million dollars to local industry annually since the building of the project.

Historical Review of consideration by State and local interests since the building of the Government rock jetty in 1937.

A local resident, Milo Moore upon becoming Director of Washington Fisheries in 1945, (a former Mayor and fisherman - fish buyer at La Conner) called upon the State Legislature for funds to build a salmon hatchery on the Skagit River at Marblemount, with intentions to off-set the losses to salmon runs caused largely by the closing off of Swinomish Channel, and the main delta sloughs of the Skagit River to benefit navigation, drainage and flood control. In 1946 the State's most modern salmon hatchery was built on the Skagit, and placed in operation. Since that time fishing seasons regulating fishermen were drastically curtailed to bring about a return of the salmon runs comparable to former years.

In addition to the building of the Skagit Salmon hatchery, the State Fisheries Dept. built a salt water fish rearing station at Bowmans Bay, in an effort to further solve the declining trend of Swinomish Channel-Skagit River salmon.

In spite of great effort on the part of the State of Washington to extend artificial propagation of salmon fry to migratory size fish for seeding the Skagit River, and the bringing in of other stocks of live salmon spawn to aid this cause, the salmon runs of former years did not return. It was found that the river delta streams for the acclimation of the young salmon in their transition from fresh water to the growing areas of the sea, was a vital part of regeneration of salmon; and that Swinomish Channel in its former state prior to 1937, did serve as an important nursery area for young salmon heading out to sea from the Skagit River. And that returning adult salmon equipped with natural homing instinct to retrace the route of their seaward migration to their stream of origin, encountered the rock barrier closing off the Swinomish Channel, did serious damage to the Skagit River salmon, and thereby destroyed the once thriving salmon fishery that existed all along the Swinomish Channel and into the waters of northern Puget Sound.

It is a fact that no one (locally) knew in 1937 when the Government jetty was built, just what effect it would have on the salmon fishery. Oyster men in Padilla Bay north of Swinomish Channel also suffered a loss to their oyster growing enterprise over thousands of acres of tide lands, due to the closing off of fresh river water from their bay area. And they eventually went out of business.

Effort by Milo Moore to save Skagit River salmon and that of other areas of the State of Washington.

Milo Moore, after spending an all out effort for four years (1945-1949) to rebuild the State of Washington salmon resources through curtailment of fishing effort and the building of salmon hatchery operations to off set losses caused by man made obstructions to natural reproduction of salmon, left the Department of Fisheries due to a change of administration.

After eight and half years working with fisheries in Europe, Asia and at the nation's Capital, Milo Moore returned to the post of Director of Fisheries for the State of Washington. And once again began an all out effort with the support of a friendly Legislature to rebuild depleted salmon runs in streams of Washington. And once again considered what happened over the years to cause the Skagit River salmon runs to decline to approximately one fifth the size of years prior to 1937, which seemed to be the turning point of fish landings for the area. By such effort the salmon runs did show signs of increase, the gain largely due to restricted fishing effort.

In spite of greater attention given to rebuild Skagit River salmon stocks, the salmon did not return in numbers to provide a profitable fishery as existed in former years. Many fishermen indicated the State was permitting too much fishing time for salmon fishing along the Coast and in the Strait of Juan de Fuca heading off Skagit River salmon. Historically, checking the records of the State Fisheries Department, we have had since the 1920's a comparable heavy fishery for salmon in the areas mentioned. And at each conjecture considering what has happened to the natural environment, we get back to the changes in the river delta area whereby many fish experts are convinced is a key control area for survival of young salmon in their transition from fresh water to the sea; and for the escapement of adult salmon in their migration to the spawning area of Skagit River. The young salmon by instinct make their way without the aid of parent stock, long dead before they emerge from the fertile egg, their beginning of life.

It is enlightening to inquire just what did exist in benefits in salmon resources in former years by the unobstructed Skagit River. Salmon fishermen fished up the Skagit River to a point above the city of Mt. Vernon prior to 1919. In that year fishing for salmon was hereafter restricted to the mouth of the Skagit River. The area about the mouth of the Skagit and on into Swinomish Channel was one of the State's most productive fishing areas.

In the time prior to 1940, three fish buyers operated out of LaConner buying salmon from Indian and non-Indian fishermen stationed all along the Swinomish Channel and in the Skagit River delta area. Salmon fish traps lined the shore line area inside Deception Pass adjacent to the Skagit delta. In the fall purse seine fishermen operated in a profitable fishery for silver and chum salmon in the Skagit delta area. Now this is all gone with only a few gillnet fishermen and two Swinomish Indian fish traps struggling in the final existence of a once thriving fishery.

Over the years all five species of salmon and steelhead were taken in the Skagit River. Truck load after truck load of salmon, sometimes three trucks a day left the Jack Moore fish dock in LaConner loaded with salmon for Seattle and nearby fish canneries. The bulk of this salmon purchased from Indian fishermen, two other salmon buyers also bought fish at LaConner and in and around Swinomish Channel and Skagit River. Two salmon canneries operated for several years at LaConner canning fall salmon. There were about 30 Indian fishermen and over one hundred non-Indian fishermen fishing in the Swinomish Channel area and in the Skagit River delta.

During the lean years when price of salmon paid fishermen was low, fishermen had difficulty making a living. The fish buyer often advanced funds for food, nets and equipment to keep the fishermen going. There was no relief for Indian and non-Indians hard up for the lack of sale for their fish and for poor fishing seasons.

It is estimated (by all salmon buyers) that over one half million pounds of salmon annually was harvested from the waters of Swinomish Channel. Another half million pounds of salmon caught in the Skagit River mouth each year. And the Inside Deception Pass salmon traps landed over a million pounds of salmon annually with Purse Seiners operating in the fall season, annually. All this fishery existed prior to 1937.

Swinomish Channel Fishery

Along the course of the Swinomish Channel, from the Hole-In-The-Wall north to Hat Island, the waterway was divided into drift net areas and slack water fishing locations. The established drifts were: Hole-In-The-Wall drift, Jetty drift, town drift, shingle mill drift, red barn drift, little cut drift, big cut drift, Conrad drift and outer channel drift. About 30 set net locations were established for slack water fishing. The fishermen on a number of drifts, drew numbers for their turn to fish the tides after dark. When the Swinomish Channel was muddy with fresh water run off of the Skagit River, daytime fishing for salmon was good. Tons of salmon were landed annually just off the LaConner docks where people watched the fishermen hauling in large catches of Chinook salmon, Silver salmon, Chum and Pink salmon. This entire fishery ceased after the closing off of the Skagit River water from Swinomish Channel by the U. S. Corps of Army Engineers.

All of the foregoing conditions resulting from the blocking of the passage way for migrating salmon in and out of the Skagit River, were constructed and maintained contrary to Public Law. A statute which states the builders of dams in streams of Washington must build a suitable fish way and maintain it, or in lieu thereof (at the insistence of the Director of Fisheries) build and maintain a salmon hatchery to offset salmon losses by such stream diversion.

Indian fishermen whose losses in earnings caused by the Government jetty cannot be identified by licenses, they being not subject to the tax.

A conservative estimate of lost earnings to Swinomish Channel - Skagit River fishermen resulting from the construction of the U.S. Government rock jetty between McGlynn Island and Goat Island is at least \$2,000.00 per year. The loss to local fish buyers, four to five times that amount annually.

It is important in realistic appraisal of the harmful effects of the U.S. Corps of Army Engineers over-riding effort to dam off public waterways for navigational benefits and flood control, to consider the upset in human involvement and the protection of natural and artificial aid to marine resources. The political imbalance the more dominate enterprise has, effecting state and national consideration for aid and protection of salmon resources. The government employees with their dominate views on human endeavor in the past has over-ridden the weaker voices of men who requested protection of salmon and other food fish native to this region.

An outstanding example of U.S. Corps of Army Engineers over-riding domination in their building of dams and support for advancement of industry, lies in the fact the old 1899 Federal law prohibiting the dumping of waste matter in public waterways (navigable streams and bays) has been overlooked for more than 70 years. And is just now being forced upon this Agency to act in behalf of the public interest.

Swinomish Channel-Skagit River salmon can be rehabilitated.

In this modern time ways have been found to artificially fertilize salmon spawn now being wasted by the millions by the States, incubating the spawn and rearing young salmon by simplified means that can re-establish a profitable salmon fishery in Swinomish Channel and the Skagit River area.

The art of artificial propagation of salmon (now a government monopoly) is in fact a costly operation, yet a beneficial means of re-establishing rivers, bays and inlets with salmon. With opportunity given private and semi-private services, fish culturists can cut the present cost of artificially rearing seedling salmon to one half the Government cost, and thereby extend the benefits of this aid to fisheries, practiced in this region for over 80 years.

It was stated by Milo Moore, Director of Washington Fisheries in 1957, that the seeding of Washington rivers with 500 million young salmon of all species annually, that a near balance salmon fishery can be maintained; this in addition to regulation of fishing effort to permit a fair escapement of natural spawning salmon to streams. The total state annual production of salmon in hatcheries now amounts to approximately 160 million young salmon released to public waters.

To offset the losses to the Swinomish Channel-Skagit River salmon fishery caused by the construction of the McGlynn-Goat Island Jetty, it is estimated it will take an estimated annual release of 30 million reared migrant size chinook, silver, chum and sockeye salmon annually; and a near complete curtailment of the pink salmon fishery for at least three cycles to build back the runs.

Floating fish farms with newly hatched salmon fry supplied from hatcheries, can provide the most economical way known in conducting salmon farming in the Swinomish Channel-Skagit River area. The newly designed floating salmon farm offered by the Bellingham Builders Supply Co., can by simplified means, provide for the rearing and release of migrant size salmon at the most suitable location in the Swinomish Channel-Skagit River area.

The sad commentary of many salmon conservationists is, no one in government cares what private people have to offer (in face of fact relating to salmon management), the many experts involved with fisheries in government have failed to secure salmon of the Pacific.

Political Complications.

Fishermen and citizens of the Skagit area are convinced there are ways by which we can enjoy the benefits of re-channalization of the Skagit River-Swinomish Channel and still maintain a prosperous fishery for salmon comparable to former years, prior to the building of the Government jetty between McGlynn's Island and Goat Island.

Political complications involving government personnel have in fact turned their back on practical ways and means advocated by fishermen and industry, that would provide salmon benefits through artificial propagation in restoration of the salmon fishery in the Swinomish Channel-Skagit River area. Practical means for rebuilding the local salmon stocks was submitted to leaders of the Bureau of Indian Affairs and to the Federal and State Governments by Milo Moore in 1965, in a comprehensive report entitled "Program for the Advancement of Pacific Fisheries." And he and his associates for the past ten years have pointed out practical ways for the advancement of large scale salmon farming to various other public services. On each occasion they have met with bureaucratic condemnation and opposition to such improvements to fisheries management.

The unrecognized fact that a major portion of silver and chinook salmon landed by Washington, Oregon and California fishermen today, are a result of artificial propagation, and that young salmon released from our Pacific Coast Salmon Hatcheries now comprise the very foundation of our salmon fishery. This indicates the direction that must be taken for revival of this important resource, seriously effected by the advancement of other public and industrial water uses.

In total correction of fault by the U.S. Corps of Army Engineers in the building of the McGlynn-Goat Island rock jetty, it is recommended that a sum of \$800,000.00 be allocated for the construction of a salmon hatchery fish farm operation capable of hatching and rearing five million migrant size salmon annually for stocking Swinomish Channel. This operation to include salmon egg spawn taking station and a floating salmon rearing farm located at a suitable place in Swinomish Channel. Salt water farming of young salmon has proved to be the most productive way for low cost rearing of migrant size fish. And that the funding of the project be supported with \$30,000.00 annual maintenance funds, under the direction and supervision of the Port Authority of Skagit County, Washington, coinciding with the support and cooperation with the State of Washington.

The non-Indian fishermen having suffered lost earnings over the past many years due to the obstruction to migrating salmon built by the U.S. Corps of Army Engineers agree that half the sum they hereby claim rightfully due them as indemnity for impairment of their salmon hatchery, be authorized by the U.S. Congress for fulfillment in building a salmon hatchery fish farm facility for servicing Swinomish Channel. The balance they claim due them (a responsibility of the United States Government) to be paid to them on a basis of the number of years they fished the area and were forced to go elsewhere in pursuit of commercial fishing.

The unforgiveable act of Government now lies in the fact that millions of salmon eggs in live spawn available to public owned salmon hatcheries, is presently being wasted and diverted to manufacture of Japanese caviar. All available salmon spawn should be cared for in the production of live migrant size salmon and recycled back in regeneration of salmon runs in depleted streams of the Pacific Coast.

Voice of Fishermen

Statement by Henry Irons who fished Swinomish Channel from 1902 to 1965. We made a good living fishing at the north end of Swinomish Channel until the Government rock jetty shut off the Skagit River water in 1937. A year after the diversion of the river water from the Channel, salmon milled around the bay north of the Channel and disappeared. The few that did enter the Channel were caught by a few fishermen who held on, hoping the salmon runs would return. We were wiped out by the jetty and were forced to fish outside the Skagit River delta, this area too, in the years following the building of the jetty became depleted in salmon runs.

Statement by William Alvord, LaConner fisherman and fish buyer; I fished and bought salmon for the LaConner Cooperative Fishermen's Union, for several years after the U.S. Army Engineers built the Hole-In-The-Wall rock jetty, damming off the river water that flowed into Swinomish Channel. I picked up salmon from fishermen living all along the Channel and in the Skagit River. After 1937 this fishery all went down the drain in spite of promises made a fish passage way and boat passage opening in the jetty would be maintained. No one knew what would happen to our salmon fishery at the time the jetty was built. It did in fact, destroy the well balanced salmon runs we had maintained for over 40 years before the jetty was built. I and many other fishermen never did find other source of income we lost by the jetty destruction of the Swinomish Channel fishery. And the LaConner Coop. Fishermen's Union finally dissolved its membership and went out of business on the account of the jetty.

Statement by Harold Johnson, an old time LaConner fisherman, the Hole-In-The-Wall Government jetty killed off our best salmon runs to the Skagit River. I haven't made good fishing any year since the closing off of the Skagit River water from Swinomish Channel.

Statement by Milo Moore LaConner Mayor (1933 to 1943) also, a fisherman and fish buyer and Director of Washington State Fisheries 1945 to 1949 and 1957 to 1961 July: At the time the U.S. Corps of Engineers were in the process of surveying and constructing the rock jetty diversion of the flow of the Skagit River from entering Swinomish Channel, there was little concern by LaConner citizens and the fishermen, this project would materially effect the salmon runs originating in this river system. Attempts were made by the U.S. Engineers to comply with Washington Law in the construction of a required fish way. Upon completion of the jetty fishermen and others were concerned the small passage way constructed would not permit the movement of salmon to and from the Channel to the River. As the Swinomish Channel salmon fishery diminished and complaints of fishermen were made about the failure of the fish passage way at the Hole-In-The-Wall jetty to permit the passage of salmon and small craft, World War II was in progress and all matters pertaining to construction and Government funding of a nature to correct the fault of the jetty passage way, was frozen until after the war. This in effect forbid consideration by all interests in seeking correction of the required fish passage way and boat passage until the end of the war in 1945.

In 1945 the former La Conner Mayor Milo Moore became Director of Washington State Fisheries, and upon his insistence a survey of the Skagit River salmon conditions was made by the State Fisheries personnel, on how the salmon runs of this river could be restored to former abundance. The Fisheries Department recommended that a five million 'fry salmon hatchery be built to replant the Skagit River with artificially reared fish. A modern salmon hatchery was built in 1946 at Marblemount about 50 miles up the river at the heart of the natural salmon spawning grounds. This operation over the years, did help to increase the salmon runs.

From 1947 to 1957 the Skagit Salmon Hatchery liberated five million or more young salmon annually in a re-stocking program. This station helped but failed to make up for the environmental hazards caused by stream diversion by up-river dams and the damming off of the salmon nursery area of Swinomish Channel and other Skagit delta tributaries.

In 1957 July, the former La Conner Mayor and Director of Washington Fisheries was re-appointed Director of Fisheries, and again set forth a program designed to rebuild the salmon runs of the Skagit River system. Fish farming was expanded and salmon hatcheries production of migrant size salmon was doubled in the State in a program to off-set

the impairments to salmon by increased population and industrialization. Drastic curtailment of salmon fishing by sport and commercial fishermen was put into effect to help restore the salmon populations in all rivers, with special attention given to the Skagit salmon stocks. This, the second largest River in the State, had witnessed the sharpest decline in salmon resources. All such efforts failed to show marked increases in Skagit River salmon, while in most other streams salmon runs increased remarkably according to the numbers of planted salmon fry.

In 1966, in response to public interests and the build-up of evidence that salmon farming did contribute greatly to increased salmon stocks, again salmon farming became a leading objective of the State.

With all the attention given to salmon resources by the government, the Skagit River salmon that survived compared to a small portion of the landings of former years. And to date no program of objective of the State offers hope that salmon of the Skagit River and Swinomish Channel will return as an important public asset. This in spite of presently known ways (that man can establish) to provide positive return of the Historic salmon fishery for Skagit, La Conner fishermen.

It is clearly established that a reasonable effort has been made by the State to offset the losses to salmon runs caused by the U.S. Government rock jetty at the entrance of Swinomish Channel. And that the U.S. Corps of Army Engineers failed to provide adequate fish way passage for salmon as required by Washington law, or substitute in lieu thereof a salmon hatchery operation to make up for such losses caused by the jetty diversion, And that no recognition of fault on the part of the U.S. Corps of Engineers has been evident by either the State of Washington or the U.S. Government to date.

RESPONSIBLE INDEMNITY

In consideration of responsibility of the United States Government to comply with State and Federal law in the construction and maintenance of harbor and channel improvements for navigation of ships, barges and water commerce, it remains that the Government is liable for compensation for lost earnings of Swinomish Channel-Skagit River fishermen caused by the building of the McGlynn Island to Goat Island rock jetty from the time the jetty was built in 1937, and until so long as the obstruction retards or obstructs the migration and regeneration of salmon. This a natural resource of the area affected by said jetty. The public law still avails whereby responsibility exists on the part of the builder of the jetty to replace the losses to salmon and migrating fish caused by the rock jetty, by artificial means.

FISHERMEN'S CLAIM TO THE U. S. GOVERNMENT

The concerned fishermen, now about to lose their entire salmon fishery to the Skagit River under State regulation, and their desperation to preserve this historic fishery and means of livelihood, do hereby petition the United States Congress and National Administration for correction of the situation confronting the Swinomish Channel-Skagit River salmon resources. And that they be given just compensation for annual lost earnings in the fishery since the time the Government rock jetty closed off the Skagit River waters from Swinomish Channel.

It is stipulated that a reasonable estimate of lost earnings per fishermen per year to be \$2,000.00. This estimate pro-rated at the lowest conceivable factor in relation to lost landings of salmon annually, and the prices paid for salmon to the fishermen. Certification of reported years claim by non-Indian fishermen can be obtained from the Washington Department of Fisheries license division.

The following comprises a list of Indian and non-Indian fishermen who make a living dependent largely upon the Skagit River salmon runs.

Swinomish Indian fishermen (not licensed) who formerly fished and presently fish for salmon in the Swinomish Channel-Skagit River area:

Still living

Tandy Wilbur
Dewey Mitchel
August Day
Ray Charles
Al Sampson
Richard Peters
Morris Dan
Leonard Bob
Raymond Paul
Joseph Willup
Henry Cladoosby
Marion Chatfield

Deceased

Joe Billey
Dan Billey
George Dan
Casper Dan
George Alexander
Jim Edge
Theodor Edge
George Cagey
Raymond Cagey
Pat Willup
Alexander Willup
William Peter
Peter Charles
Tommy Bob
Jack Day
Chas. Wilbur

Historic Swinomish Indian Fishery for Salmon

The Swinomish Indian Community, as did most other Indian tribes in Puget Sound, depended largely upon salmon fishing for their livelihood. Over the years prior to the depression in the 1930's, Indian people were almost solely dependent upon the salmon resources of the Swinomish Channel and the waters adjacent to the Swinomish Reservation, for a living. With the advent of salmon traps being abolished by Washington initiative referendum in 1933, the Swinomish Tribal Community constructed and operated their own fish traps for the catching of salmon within the reservation tidal area. Over the past 25 years this has been the main source of Tribal income in addition to a supply of salmon rationed out to the Swinomish people. Funds derived from Swinomish fish traps provided labor and income for a portion of the Indian gill net fishermen, who formerly were dependent upon fishing in Swinomish Channel. Others who fished the Channel before the salmon runs were killed off by the closing off of the Skagit River from the Channel, scattered about the State looking for other sources of income.

In recent years, the re-channalization of the Skagit River caused a build-up of tide lands closing off the Skagit River water from the gap in the old Fort Whitman-Hole-In-The-Wall jetty on past Pull-In-Be-Dam Point. This in effect further caused a loss in salmon resources, and for several years reduced the tribal income from fish traps and for Indian gill netters in Skagit Bay.

All such reduction of salmon runs herein mentioned cannot be credited to the U.S. Corps of Army Engineers diversion of the Skagit River. Poor management of fisheries resources by the State and Federal Government contributed to these losses.

Now that the time has come, whereby natural stocks of salmon have been largely fished out or destroyed by environmental changes resulting from expansion of industry and public works. The Swinomish Indian Community realizes the Indians, in cooperation with non-Indian people, must extend every effort on a practical basis to replace and maintain the important salmon runs. And by this urgent plea to the UNITED STATES CONGRESS, express their wish that consideration be given to the replacement of lost salmon resources of the Swinomish Channel and the Skagit River area, in addition to compensation for lost economic benefits for the Swinomish Indian people. For compensation for the years of lost fishing rights, the Swinomish Indian people ask that a sum of \$_____ be allocated and portioned out to families of living and deceased Indian fishermen listed in this presentation to the United States Congress. The Swinomish Tribal Council also, subscribes to the request of all fishermen of this area, that funding be authorized and appropriated to build and operate a five million fry salmon hatchery - fish farm complex under the direction of the Port of Skagit County, in cooperation with the State of Washington. The purpose, to rebuild the Swinomish Channel salmon runs by means of artificial propagation.

The following comprises a list of non-Indian fishermen (licensed to fish) who practiced fishing for salmon in the Swinomish Channel-Skagit River area over the years whose earnings were affected by the Government rock jetty diversion between McGlynn's Island and Goat Island:

| <u>NAME</u> | <u>REPORTED YEARS FISHED IN AREA</u> | <u>YEARS SUBJECT TO CLAIM</u> |
|---|--------------------------------------|-------------------------------|
| Donald M. Nystrom | 1955 to present | 16 |
| John Whalen | 1956 to present | 15 |
| Ludwick Bretvick (Estate) | 1901 to 1970 | 32 |
| Dwayne Bretvick | 1955 to present | 16 |
| Arthur H. Nelson | 1935 to present | 32 |
| Victor Greathouse | 1935 to present | 32 |
| Tony Ness | 1944 to present | 27 |
| George Potter | 1930 to present | 32 |
| William N. Alvord | 1940 to present | 30 |
| Jimney Hauk | 1935 to present | 32 |
| Edward Hauk | 1935 to present | 32 |
| Edward Knudsen Sr. | 1933 to present | 32 |
| Warren Nellis | 1957 to present | 14 |
| John Gardner | 1950 to present | 21 |
| Bernard Ashland | 1943 to 1970 | 17 |
| Signie Ashland | 1950 to 1965 | 15 |
| Francis Thein | 1953 to present | 18 |
| Frank Nelson | 1960 to present | 11 |
| Emmett F. Melville | 1950 to present | 21 |
| Dode Egbers | 1950 to present | 21 |
| Eugene Bessner | 1950 to present | 21 |
| Edwin R. Lenz Jr. | 1959 to present | 12 |
| Rena Lenz | 1960 to present | 11 |
| Grant Fulk | 1940 to present | 31 |
| Chet Karlson | 1930 to present | 32 |
| Edward Rigers | 1945 to present | 26 |
| Philip Holm | 1946 to present | 25 |
| Archi Knudson | 1962 to present | 9 |
| Pete Wolten | 1965 to present | 6 |
| Harold L. Johnson | 1931 to 1966 | 28 |
| Henry Irons | 1902 to 1965 | 27 |
| Donald Graham | 1954 to present | 17 |
| Ralph Meeks | 1934 to present | 32 |
| Marrell Holmstrom | 1957 to present | 14 |
| Fred March Jr. | 1955 to present | 16 |
| Fred March III | 1956 to present | 15 |
| Emma Bjorklund (Henry Bjorklund Estate) | 1925 to 1965 | 32 |
| Carl A. Nelson | 1929 to present | 32 |
| Edgar Millward | 1925 to 1965 | 27 |
| Edward Knudson Jr. | 1964 to Present | 7 |
| | | <u>886</u> |

Total Man Years lost fishing benefits - 886 years x \$2,000 = \$1,772,000.

Washington Public Law Requirements violated by U. S. Corps of Army Engineers in Construction and Maintenance of McGlynn-Goat Island Rock Jetty

75.20.060 FISHWAYS REQUIRED IN DAMS, OBSTRUCTIONS - REMEDIES FOR FAILURE. Every dam or other obstruction across or in any stream shall be provided with a durable and efficient fishway, which shall be maintained in a practical and effective condition in such place, form and capacity as the director may approve, for which plans and specifications shall be furnished by the director upon application to him, and which shall be kept open, unobstructed and supplied with a sufficient quantity of water to freely admit the passage of fish through the same. Every owner, manager, agent or person in charge of such dam or obstruction who shall fail to comply with the provisions of this section is guilty of a gross misdemeanor.

If any person or government agency fails to construct and maintain such fish ladder or fishway or to remove such dam or obstruction in a manner satisfactory to the director, then within thirty days after written notice thereof has been served upon

the owner, his agent, or the person in charge thereof, the director may construct a suitable fish ladder or fishway, or remove such dam or obstruction, and the actual cost in case of construction of fishway thereof shall constitute a lien upon the dam and upon all the personal property of the person or government agency owning the same. Notice of such lien shall be filed and recorded in the office of the county auditor of the county in which such dam or obstruction is situated. Such lien may be foreclosed in any action brought in the name of the state.

If any person or government agency fails to make any such fishway or remove such dam or obstruction in a manner satisfactory to the director, when within thirty days after written notice thereof has been served on the owner, his agent, or the person in charge, such dam or obstruction shall thereby become a public nuisance and the director may take possession thereof in his own name or in the name of the state and destroy it and no liability shall attach for such destruction. (1955 c 12 & 75-.20.060. Prior: 1949 c 112 & 47; Rem. Supp. 1949 & 5780-321.)

75.20.061 DIRECTOR MAY MODIFY, ETC., INADEQUATE FISHWAYS AND PROTECTIVE DEVICES. In the event any fish passage facility or fish protective device as set forth in RCW 75.20.040 and 75.20.060 which have been in existence or are existing at the time of enactment of this act, is determined by the director to be inadequate for the purposes for which it was intended; the director in addition to other authority granted in this chapter may in his discretion, remove, relocate, reconstruct, or modify said device, without cost for materials and labor to the owner or owners thereof: PROVIDED, That the director may not materially modify the amount of flow of water through the facility or device. Thereafter such fish passage facility or fish protective device shall be maintained at the expense of the person or governmental agency owning said obstruction or water diversion in accordance with RCW 75.20.040 and 75.20.060. (1953 c 153 & 1.)

Director of game may modify, etc., inadequate fishways and protective devices: RCW 77.16.221.

75.20.090. IF FISHWAY IS IMPRACTICAL, FISH HATCHERIES MAY BE PROVIDED IN LIEU. In the event that any person or government agency desires to construct or maintain a dam or other hydraulic work in any of the streams of this state of a type making a fish ladder or fishway thereover impracticable, in the opinion of the director, then such person or government agency, before any construction work shall commence on such dam or other hydraulic work shall at the option of the director (1) convey to the state a site or sites of a size and dimensions satisfactory to the director, at such place as may be selected by the director, and erect thereon a fish hatchery or fish hatcheries, rearing ponds and other buildings according to plans and specifications to be furnished by said person or government agency subject to the approval of the director and enter into an agreement with the director secured by good and sufficient bond, to furnish all water and lights without expense, and necessary sums of money to operate and maintain said hatchery or hatcheries and rearing ponds or (2) enter into an agreement with the director secured by good and sufficient bond to pay to the state such initial money and make such annual payments of additional money to the state as the director may determine are necessary to expand, maintain, and operate additional facilities at existing hatcheries within a reasonable distance of such dam or other hydraulic work to compensate for the damages sustained by the erection of any such dam or other hydraulic work. Any decision of the director hereunder shall be subject to review in the superior court of the state for Thurston county.

Any person or government agency who fails to comply with the provisions of this section is guilty of a gross misdemeanor and each day that such person or government agency carries on construction work on such dam or hydraulic work or operates any such dam or hydraulic work without complying with the provisions of this section constitutes a separate offense. (1955 c 12 & 75.20.090. Prior: 1949 c 112 & 48; Rem. Supp. 1949 & 5780-322.)

75.20.100 HYDRAULIC PROJECTS OR OTHER WORK - PLANS AND SPECIFICATIONS - APPROVAL - FAILURE TO FOLLOW OR CARRY OUT APPROVAL CONDITIONS - PENALTY. In the event that any person or government agency desires to construct any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds, such person or government agency shall submit to the department of fisheries and the department of game full plans and specifications of the proposed construction or work, complete plans and specifications for the proper protection of fish life in connection therewith, the approximate date when such construction or work is to commence,

and shall secure the written approval of the director of fisheries and the director of game as to the adequacy of the means outlined for the protection of fish life in connection therewith and as to the propriety of the proposed construction or work and time thereof in relation to fish life, before commencing construction or work thereon. If any person or government agency commences construction on any such work or projects without first providing plans and specifications subject to the approval of the director of fisheries and the director of game for the proper protection of fish life in connection therewith and without first having obtained written approval of the director of fisheries and the director of game as to the adequacy of such plans and specifications submitted for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, he is guilty of a gross misdemeanor. If any such person or government agency be convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

PROVIDED, That in case of an emergency arising from weather or stream flow conditions the department of fisheries or department of game, through their authorized representatives, shall issue oral permits to a riparian owner for removing any obstructions or for repairing existing structures without the necessity of submitting prepared plans and specifications. (1967 c 48 & 1; 1955 c 12 & 75.20.100. Prior: 1949 c 112 & 49; Rem. Supp. 1949 & 5780-323.)

POLICIES AND PROCEDURES PERTAINING TO SALMON AQUACULTURE IN THE STATE OF WASHINGTON

The 1971 legislature, through SB 142 (Chapter 35, Laws of 1971), gave the Director of Fisheries the authority to provide for the culture of food fish, shellfish, or other aquatic animals by private interests for commercial purposes, also known as fish farming or aquaculture, under such regulations as the Director may prescribe to safeguard the interest of the fisheries of the State.

The law further provided that:

1. A permit is required which shall be obtained from the Director of Fisheries and which shall be issued subject to the restrictions he deems necessary to safeguard the interest of the fisheries of this State. A separate permit is required for each fish farm site.
2. A \$100 annual license is required for each county of the State in which a fish farm is operated for commercial purposes by the same person, corporation, or other entity.
3. The Department may supply, at a reasonable charge, salmon eggs for use in aquaculture to a person, corporation, or other entity for use in aquaculture for a period not to exceed 6 years from the date of initial delivery. Subject to considerations of disease control or importation of exotic species, the law allows discretion in authorizing eggs or animals from other than Department sources.

Pursuant thereto, the following policies and procedures pertaining to salmon aquaculture have been adopted. These policies and procedures are new, and may be amended from time to time as the Director deems desirable to safeguard the interest of the fisheries of the State and to provide greater flexibility in meeting changing conditions in fish stocks and the state of the art.

Salmon Aquaculture Policy

It shall be the policy of the Department of Fisheries to encourage private commercial aquaculture in the State of Washington. To this end, the policy for salmon aquaculture will embrace the following:

1. Any salmon aquaculture operation requires possession of a permit (hereafter called a "Salmon Aquaculture Permit") issued without charge by the Director, is renewable annually, non-transferable, and which may be revoked at the discretion of the Director if terms of the permit are not complied with. The aquaculture farm license will not be issued until the aquaculture permit has been issued.
2. Any salmon aquaculture operation requires possession of a valid annual license as provided in the Department of Fisheries Code (RCW 75.16.100).
3. The Director, after assuring that natural and artificial fish production needs of the State have been met, may provide salmon eggs for use in aquaculture at reasonable cost to any permit holder properly licensed. Eggs will be supplied to any one aquaculture operation for a period not to exceed 6 years from the date of initial delivery, depending upon the available supply.
4. Priority among permit holders to purchase eggs from the State shall be according to date application was received by the Director (first come - first served). To be honored, all requests for eggs of a specific brood year must be received by August 1 of that brood year.
5. Up to one (1) million eggs, subject to prevailing availability of eggs surplus to Department needs, will be sold to the first permit holder before selling any to the holder next on the list. If permit holders do not want to buy the entire 1 million eggs reserved for them, the State may sell the remainder to the permit holder next in line as part of his 1-million-egg quota. If eggs are still available after each permit holder has had a chance to buy 1 million eggs, the procedure will be repeated until all available eggs have been sold. Eggs may not be resold without written permission of the Director.
6. No salmon shall be released into waters of the State of Washington without written approval of the Director, and prior to any release, all propagated fish shall be inspected by a qualified fish pathologist approved by the Director.
7. Commercial salmon aquaculture may be approved principally as an egg-to-market or fry-to-market operation, and cultured salmon may be marketed at any stage of development. In certain limited situations, culture may be allowed utilizing locations where no natural or artificially produced runs now exist, and this culture may in part be based on return of adults which have matured at sea. (NOTE: Ownership of private salmon stocks can only be assured while stocks are in direct control of the culturist. Salmon while maturing at sea are a common property resource.)
8. Through the information set forth in the Salmon Aquaculture Permit application, the Director will ascertain, before any salmon eggs are provided the applicant or any non-Department of Fisheries egg source is approved, that the proposed operation will achieve efficient use of the eggs.
9. A sales invoice shall accompany each shipment of cultured product while within the boundaries of the State of Washington and will show the aquaculturist's name, license number, the numbers of each species, weights, sizes sold, name and address of purchaser, and origin of shipment.

Requirements for a Salmon Aquaculture Permit

Applicant will submit a completed permit application form supplied by the Department which describes the following:

1. Name and address of the applicant, location of project facilities including a legal description and location map.
2. Description of facilities and equipment, operational plans and procedures including plans for disease control, marketing of product, and source of eggs.
3. Applicant's capability to conduct salmon cultural operations as proposed, including egg taking, fertilization, incubation, rearing techniques by stages of development in fresh and salt water, particularly of brood stock.
4. Applicant's financial capability to carry out the cultural operations as proposed.

Terms of the permit will also require that:

1. The Department shall have the right of access to all salmon-cultural facilities, fish cultural activities, and fish cultural and disease control records for the purpose of inspection at any reasonable time of day.
2. A quarterly report of salmon cultural activities shall be submitted to the Department in accordance with a prescribed format, which will include such information as mortalities, growth rates, feeding rates, water quality, disease control, stock on hand, and other pertinent cultural information.
3. Any major change in operations from that initially approved will require written approval from the Director.
4. Outbreaks of disease shall be reported immediately to the Department. If such outbreaks represent a serious threat to the well-being of the State's fisheries, the Department may immediately order such actions as deemed necessary to protect the State's fisheries, including quarantining or destruction of stock, sterilization of enclosures and facilities, cessation of activities, and disposal of dead fish in a manner satisfactory to the Department.

Issuance of a Salmon Aquaculture Permit does not relieve the applicant's responsibility to secure the necessary leases, permits, and approvals of Federal, local, and other State government agencies for project facilities and operations. Activities conducted over or on beds of navigable waters will require a lease from the State Department of Natural Resources.

Town of LaConner

P. O. Box 400
La Conner, Washington 98257

April 29, 1972

Mr. Milo Moore
Rt. 2, Box 752
Anacortes, Washington 98221

Dear Milo:

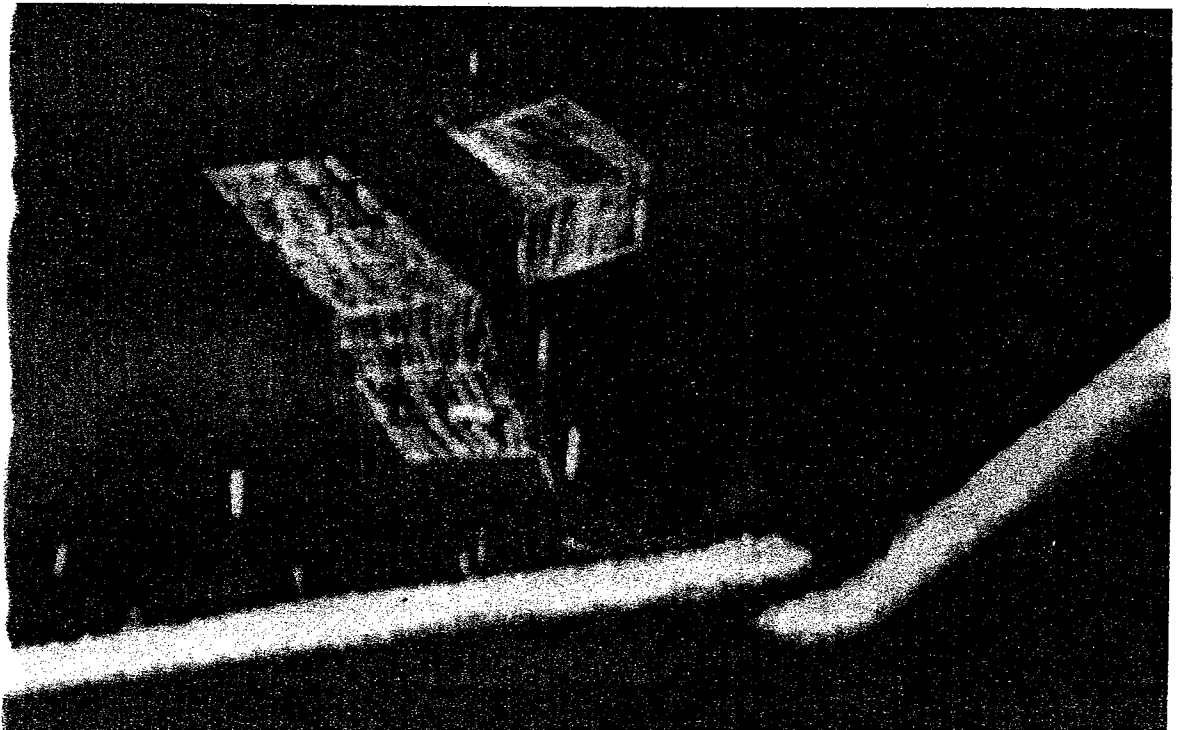
I highly endorse your project to seek federal funds to revitalize the fish runs in Swinomish Channel, and also funds to pay the fishermen for the business lost due to the depletion of the fish runs in the Channel caused by the building of the rock jetty between the Skagit River and the Swinomish Channel by the Corp of Engineers in 1937. This action is long overdue.

If I can be of any assistance to you on this project, don't hesitate to let me know.

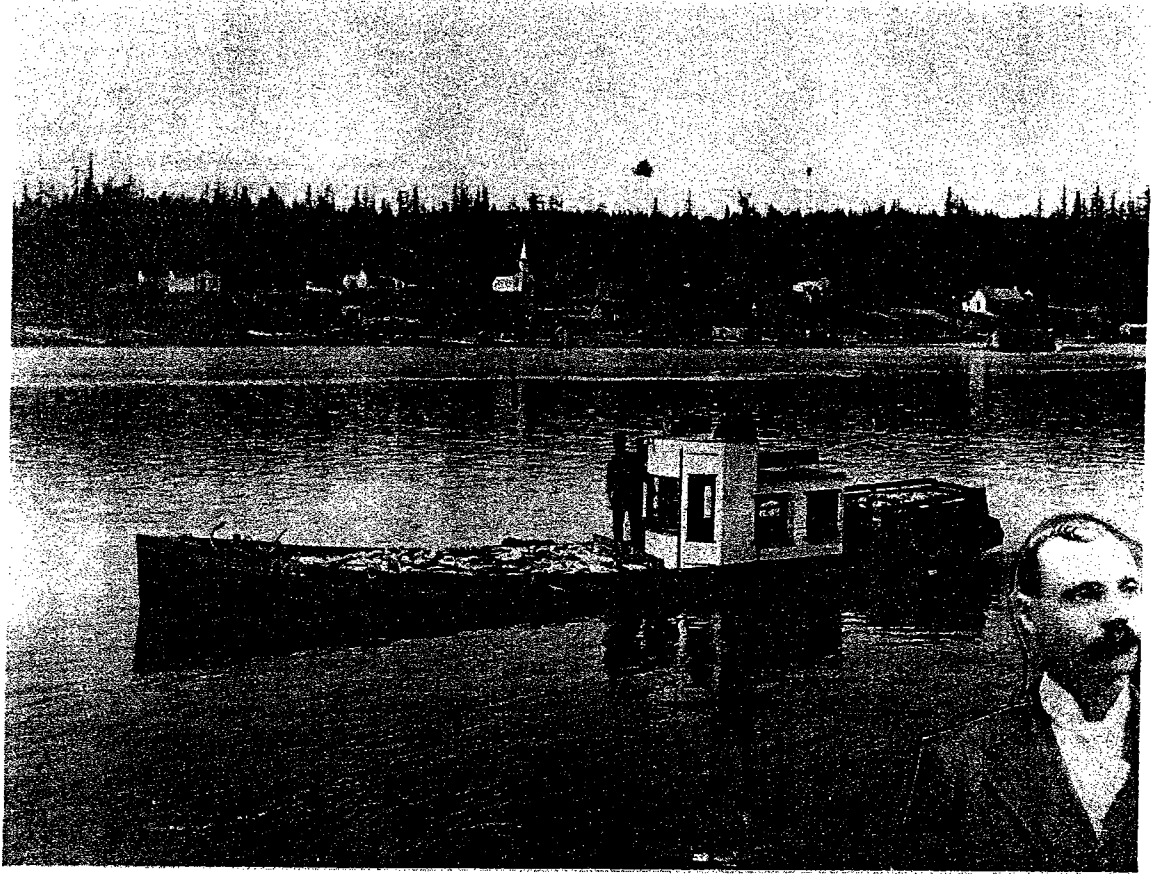
Sincerely,

Fredrick S. Martin

Fredrick S. Martin
Mayor



Above — Enlarged view of a portion of the long rock jetty that obstructed the natural course of the Skagit River salmon run, contributing to the depletion of the said run, and wiped out the once fine Swinomish Channel fishery. In the center is the inadequate fishway, which at low tide is bare rock and a barrier to the passage of all salmon.



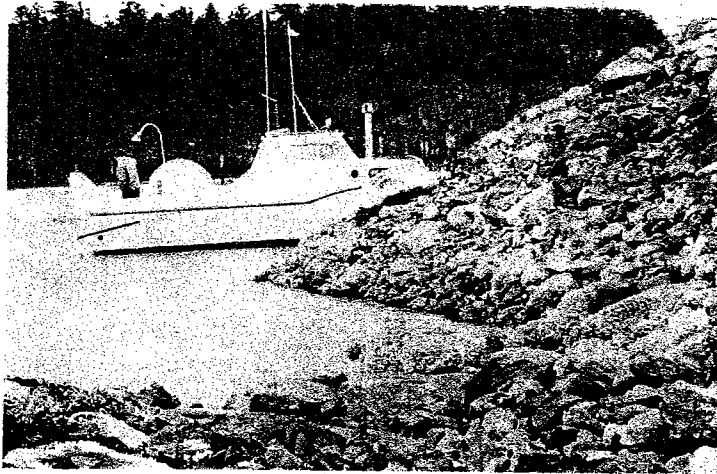
Early day fish buyer Odin Johnson with his craft filled to capacity in the days before the Jetty eliminated the great salmon runs in Swinomish Channel. At one time before the jetty, 40 fishermen a season made a good living fishing in Swinomish Channel.



Fish on the dock at cannery in LaConner, where many were employed when the salmon runs were good.



Fish bins in cannery at LaConner. A good salmon run means a busy cannery, very important to LaConner economy.



Left — Boat near the jetty fishway at low tide when there is not enough water for salmon to swim through the fishway in the rock jetty. Small boats sometimes go aground in the jetty fishway when the tide isn't high enough.

Right — View of the long rock jetty barrier to salmon runs of Swinomish Channel, with the break for the inadequate fishway shown in the center.



Left — Salmon would have to be flying fish to get through the jetty fishway at low tide. The rock bottom of the fishway is completely exposed at low tide.

**CONTRIBUTORS AND SUPPORTERS IN THE EFFORT
TO REBUILD THE ONCE GREAT SWINOMISH CHANNEL
SALMON RUNS:**

**Port of Skagit County
Mayor Fred Martin, LaConner
J. Gage, President of New England Fish Co.
Pacific Coast Maritime Trades Council
LaConner Gill Net Fishermen
Olympic Fish & Game Protective Ass'n
R. V. Moore
Milo Moore
Moore-Clark Company
Businessmen of LaConner**

**PRESENTED BY
MILO MOORE, FISHERMEN'S CONSULTANT
RFD 2, BOX 752 — ANACORTES, WASHINGTON 98221**