

NOAA Marine Protected Areas  
Federal Advisory Committee Meeting  
Newport, Oregon  
October 10 – 12, 2006



Makah Bay

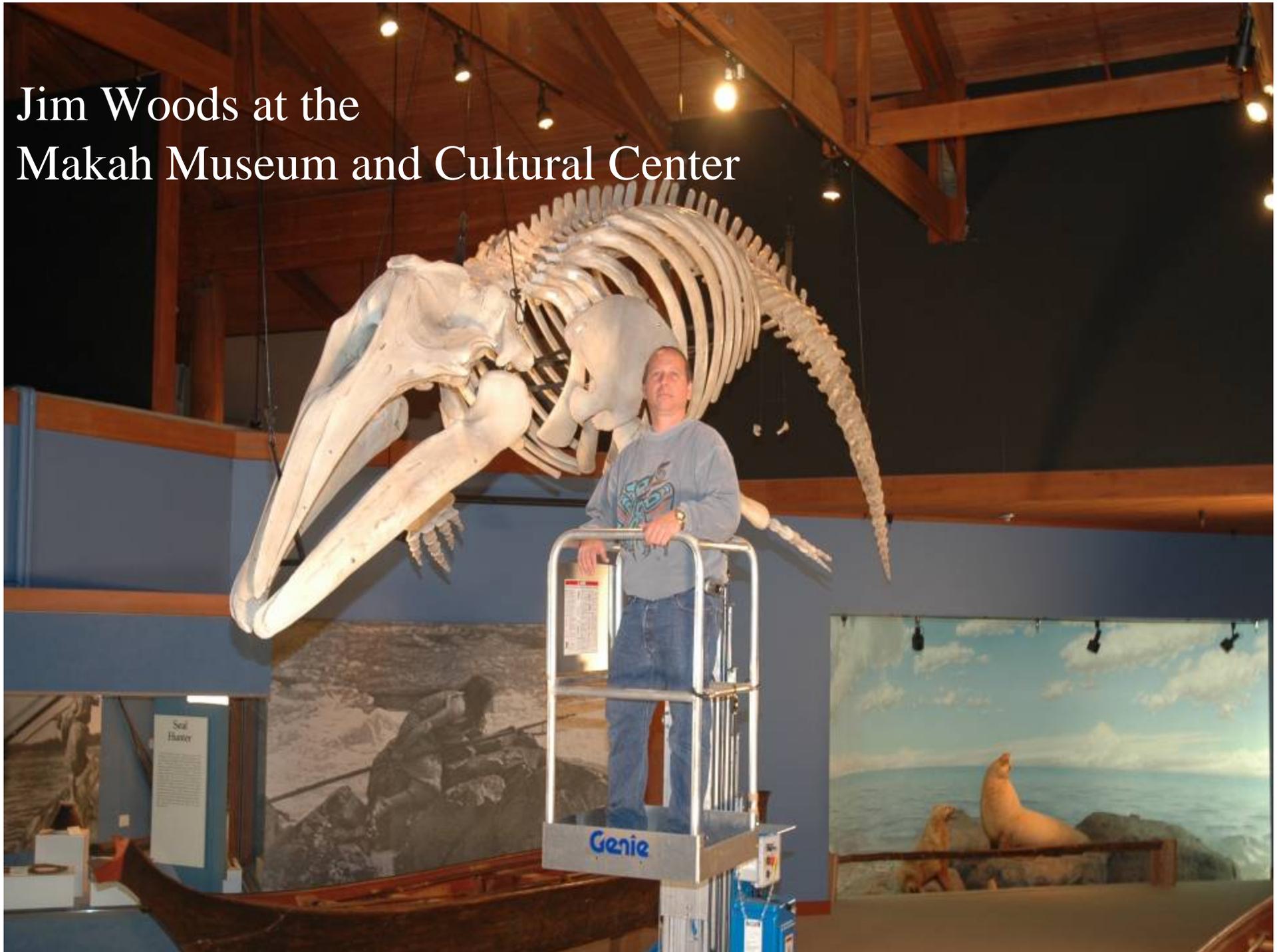




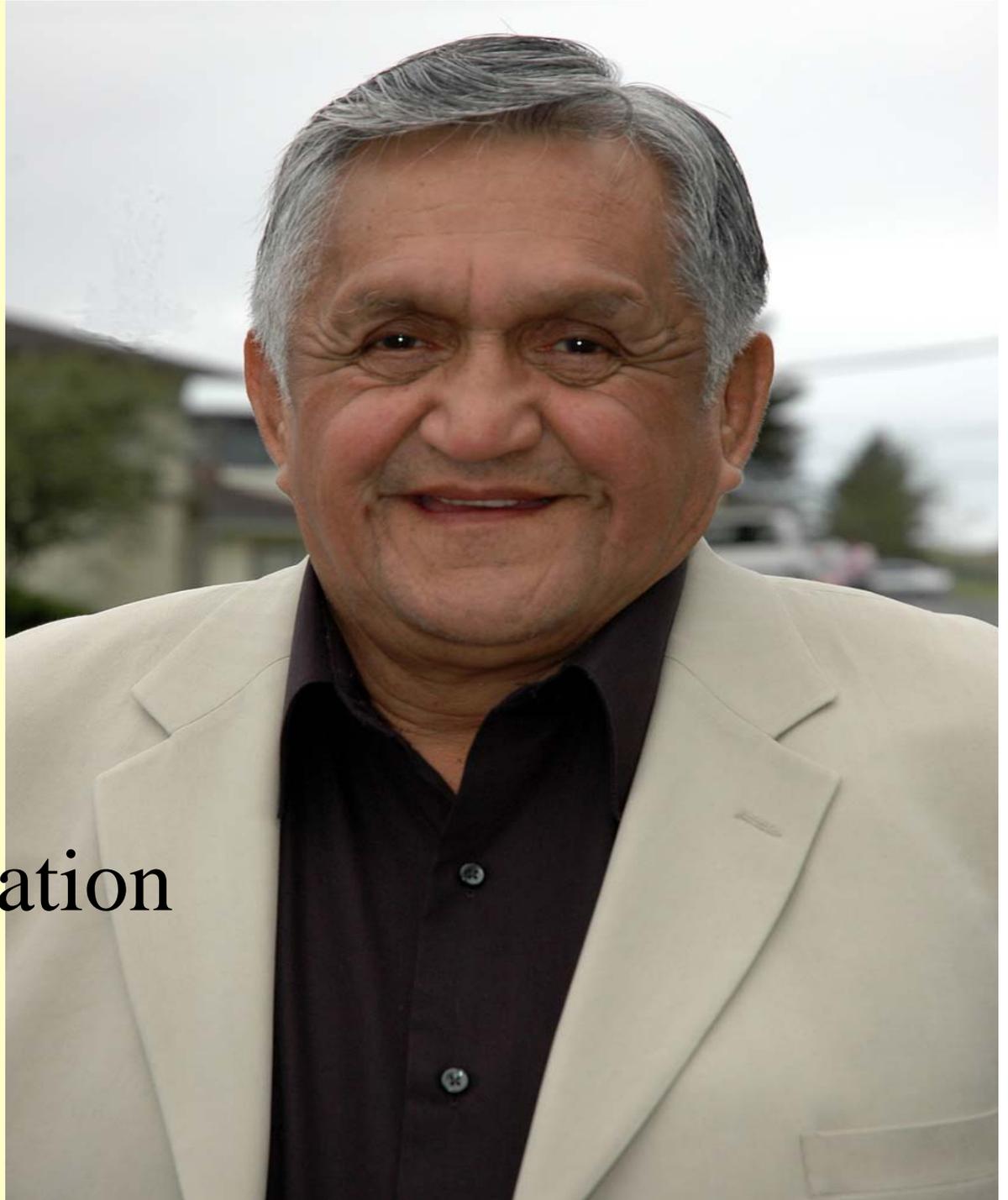




# Jim Woods at the Makah Museum and Cultural Center



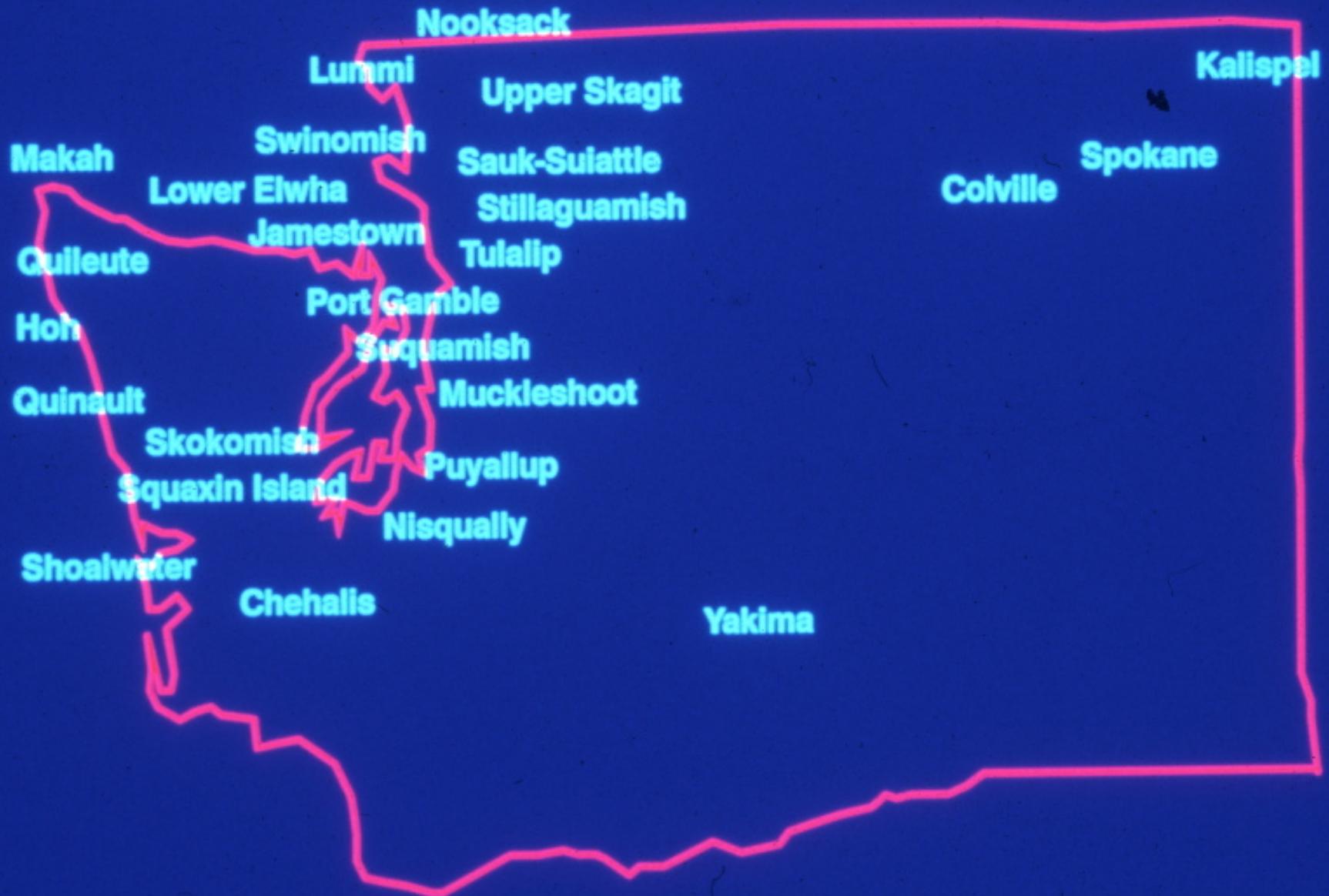
Ben Johnson,  
Chairman  
Makah Indian Nation



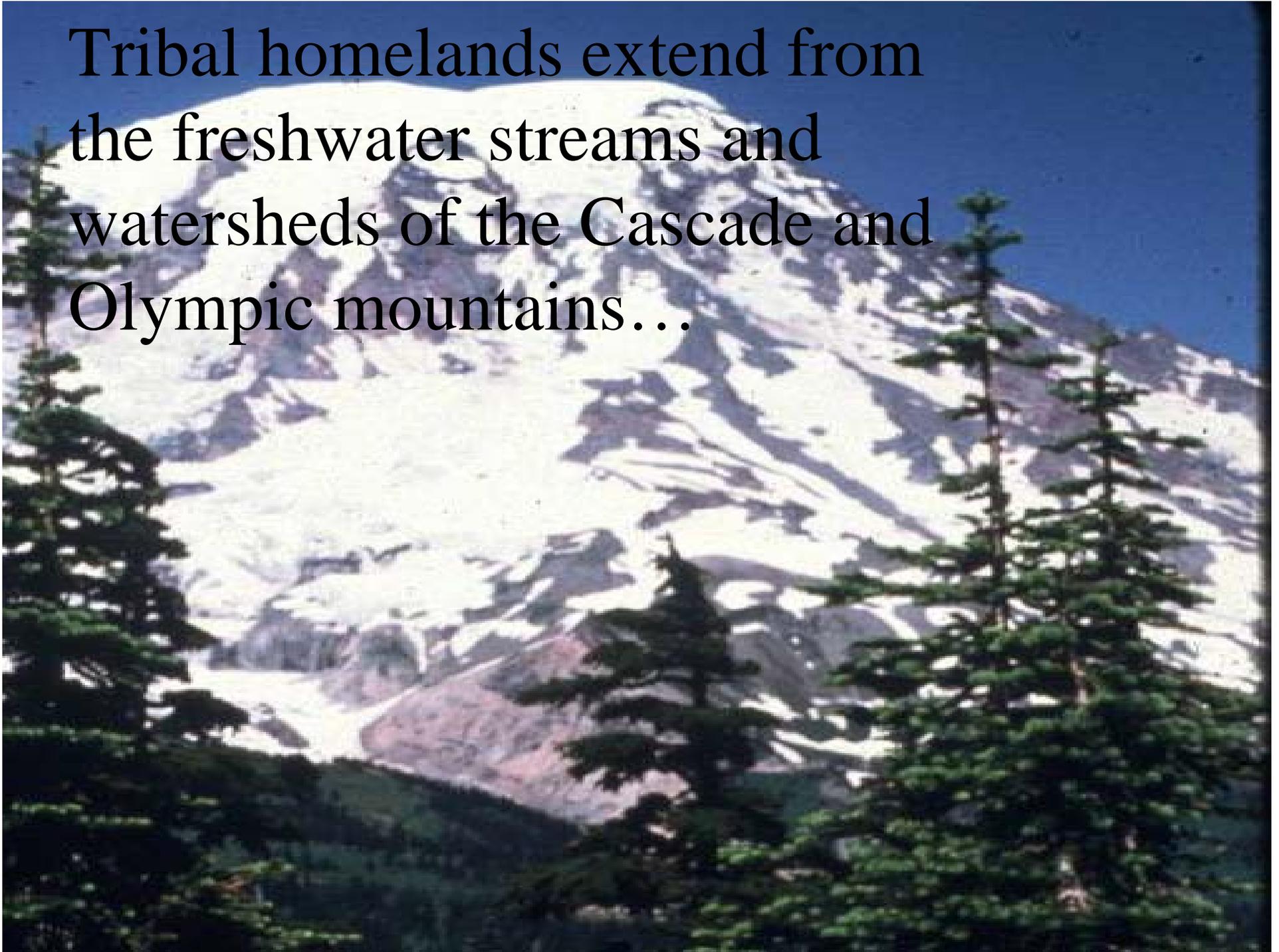
# Introduction to Tribes

- 28 federally recognized tribes in WA.
- Usual and Accustomed areas (U&A)
- 17 tribes w/ U&A in the marine waters
- Steven's Treaties
- Boldt Decision = contemporary re-affirmation of tribal treaty right to fish
- Tribes have co-management authorities and responsibilities for fish resources and their habitat requirements.

# TRIBES IN WASHINGTON STATE



Tribal homelands extend from  
the freshwater streams and  
watersheds of the Cascade and  
Olympic mountains...



to the Puget Sound...



and the Pacific Ocean.



# Indian Tribes Have Always Inhabited the Watersheds of Western Washington

Their Cultures are Based on Harvesting

- Fish
- Marine Mammals
- And other natural resources in the region











In the Mid-1850's, a Series of Treaties Were Negotiated With Tribes In the Region. In Exchange For Giving Up Most of Their Land, Tribes Reserved Certain Rights to Protect Their Way of Life

“The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians...together with the privilege of hunting and gathering roots and berries on open and unclaimed lands.”

– Treaty of Point Elliott 1855

In the decades that followed, the promises of the treaties were quickly broken as the tribes were denied their treaty-reserved rights by the State of Washington.

The struggle for recognition of these treaties climaxed in the “Fish Wars” of the late 1960s and 1970s, when tribal members were arrested and jailed for fishing.







# The Boldt Decision

In 1974, the federal court reaffirmed the tribes treaty protected fishing rights. U.S. v. Washington (The Boldt Decision) has been upheld by the U.S. Supreme Court, establishing the tribes as co-managers of the resource.

# As Co-managers, Tribes:

- Are entitled to 50 percent of the harvestable salmon returning to Washington waters
- Created the Northwest Indian Fisheries Commission (NWIFC) to assist them in conducting orderly and biologically sound fisheries



# Northwest Indian Fisheries Commission

- NWIFC role is to assist the tribes in conducting orderly and biologically-sound fisheries and to provide member tribes with a unified voice on fisheries management and conservation issues.
- Created in 1974 by treaty Indian tribes in western Washington
- 20 member tribes
- Based in Olympia w/ satellite offices in Mt. Vernon and Forks
- [www.nwifc.org](http://www.nwifc.org) or 360-438-1180

1974

The Era of conflict ends...

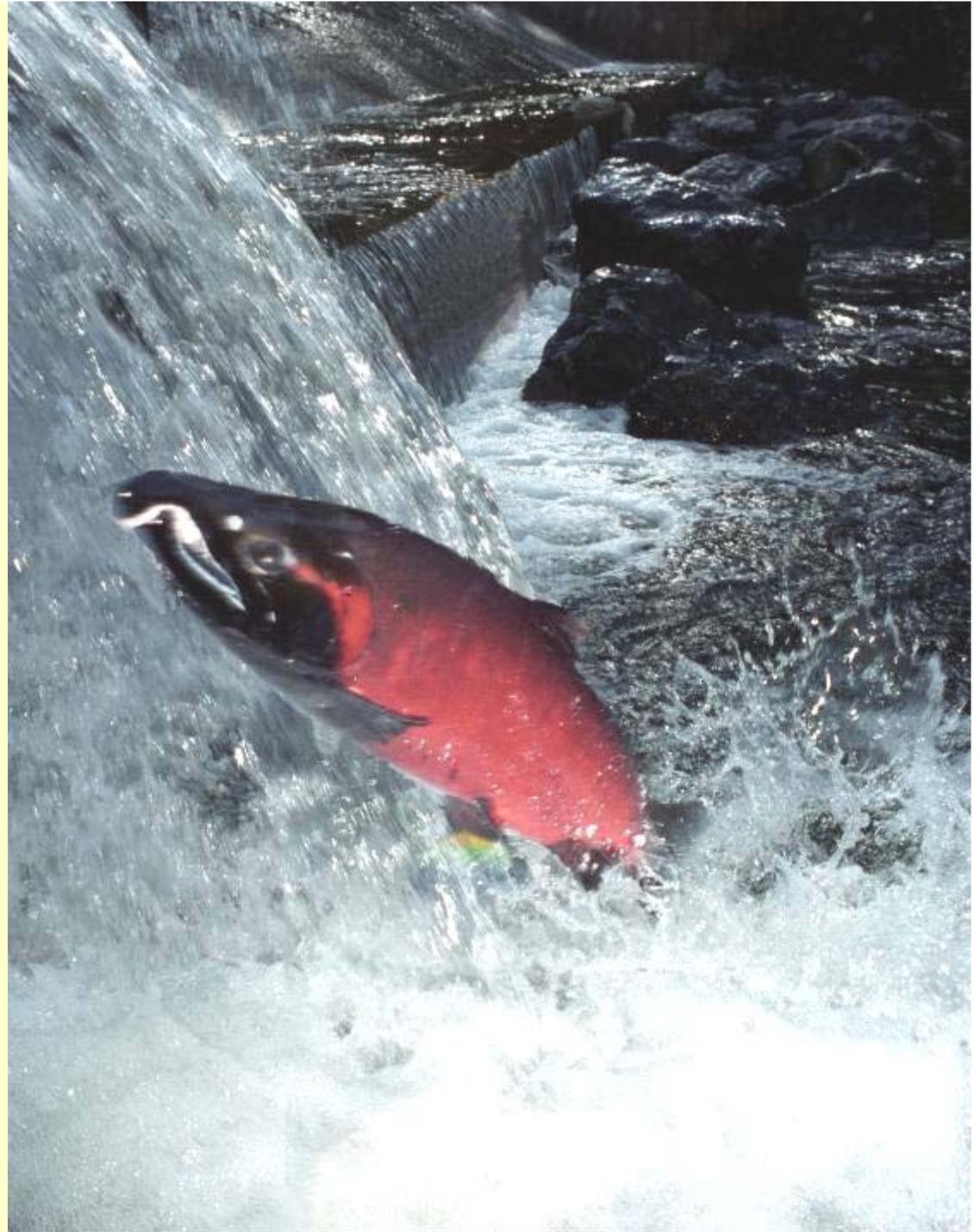
The Era of cooperation and  
co-management begins.

Though always used  
by tribes, crab and  
other shellfish  
species have  
become increasingly  
important to tribal  
economies





Fish are  
important to  
tribes both  
culturally and  
economically











Quileute Tribe celebrating the First Salmon,  
a centuries-old tradition common to all  
“Salmon People”



Tribal fisherman on the Hoh River



Quinault tribal member harvesting razor  
clams

Unloading  
halibut, one  
of a variety  
of groundfish  
utilized by  
tribes for  
thousands of  
years









## More Recent Federal Court Rulings Have:

- Upheld treaty-reserved shellfish harvest rights
- Further expanded the role and responsibilities of the tribes as natural resource managers

# Tribal Habitat Programs

- Tribes maintain comprehensive environmental protection programs in watersheds throughout the state to support the management of their treaty-reserved resources and homelands.
- The NWIFC provides technical coordination and policy development assistance to member tribes on issues affecting fish habitat and other environmental concerns.



Data collected by tribes shows how many young salmon leave streams and is used by the NWIFC to create models projecting salmon returns



NWIFC stream survey  
and habitat assessment  
training

# Proposed Framework for Developing the National System of Marine Protected Areas

- Uncertainty of commitment or process for accommodating appropriate roles / authorities of tribal co-managers.
- Limitation of tribal staff time.
- Complexity of individual tribal government perceptions and expectations.
- Utilization of MPAs as marine conservation / management strategies.
- Function and integration with existing processes.

# Suggestions

- Incorporation of a tribal MPA statement / guiding principles within framework detailing appropriate interaction with tribal governments.
- Identify all tribes affected by the proposed framework, learn and incorporate tribal treaty and co-management requirements into protocols, activities and products.
- Invoke acknowledgement of federal trust responsibility to tribes in the framework document.
- Further and maintain communication pathways.

### **General Policy Statement**

Seventeen western Washington Indian tribes have treaty-reserved fishing rights in the marine waters within Puget Sound and off the Washington coast. Tribal governments share co-management authority and responsibility for marine resources in their usual and accustomed fishing areas with State of Washington and/or the federal government depending on the specific resource and area identified. Conservation goals and standards for fishery resource management are established through government-to-government consultations between the co-managers and with other state and/or federal agencies as appropriate.

Marine protected areas in the tribes' usual and accustomed fishing areas may be proposed by any relevant government agency, but they cannot be implemented without appropriate coordination among the co-managers. This is necessitated whether the marine protected area is proposed as a permanent "no-take" area or as a temporary closure to some specific harvest or other activity. Any marine protected area that restricts a tribe's access to a portion of their usual and accustomed fishing areas is a diminishment of their treaty right and can not be imposed without their consent.

#### **General assessment framework**

Any proposed marine protected area must be evaluated for consistency with the goals and objectives of the existing management plans for the targeted marine resource (population, species, species assemblage, or marine community). Marine protected area proposals must be evaluated in context with all the other management tools available to achieve resource objectives. Because "no-take" MPA's are likely to only be effective if they restrict all harvest, and thus would be a diminishment of the tribes' treaty rights, they must be considered in the context of all other regulatory alternatives that might achieve the same conservation principle without diminishing any tribe's treaty rights.

Each marine protected area proposal should include at least the following element:

- 1) What marine resource is targeted by the proposal?
- 2) What is the current status of the resource and what is the desired future status that will result from the proposed management action? Over what period of time is the resource expected to move from the current status to the desired future status?
- 3) What are the identified factors for decline? How does the proposed marine protected area address the identified factors for decline?
- 4) What are the specific goals and objectives identified for the proposed marine protected area (including the anticipated time periods over which the objectives will be achieved)?

# Conclusions

- In the Pacific Northwest, Boldt Case area tribes have expansive usual and accustomed areas and corresponding management authorities.
- Work to functionally incorporate tribal treaty interests in any and all actions.
- Develop a government-to-government protocol with each tribe including issues of historical and cultural resources as well as governance.
- Continue and improve communication with all affected tribes.
- Identify and focus on work that provides opportunities for success rather than recipes for conflict.
- Recognize and engage tribes as committed stewards of the marine environment.

## *Remember*

*Tribes have long struggled with impact and compromise of their treaty harvest opportunities. Some initiatives aimed at marine protection also further erode tribal treaty harvest opportunities. To succeed, marine conservation efforts must include tribes and work within the context of their status as co-managers of the fisheries resource.*





# 30 Years of Co-Management

## Requirements for Success

1. Engage tribes as sovereign governments and co-managers
2. Leadership and Commitment
3. Adaptive Management
4. Support understanding and engaging the perspectives and roles of tribes
5. Funding