"TO FISH FOR THEMSELVES": A STUDY OF ACCEOMMODATION AND RESISTANCE IN THE STÓ:LÖ FISHERY

by

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Abstract

Fisheries regulations, implemented in the 1880s, banned the sale of Indian ‘food fish’ and resulted in the creation of the categories of “food fishing” and “commercial fishing.” While simultaneously accepting and rejecting that place in the margins of this fractured fishery, Stó:lō people have consistently maintained that their Aboriginal right to fish cannot be cast in these false categories that separate the economic and social components of their way of life.

Stó:lō fishers have been fighting for their Aboriginal right to fish since the their first encounters with the Xwelitem. This thesis addresses that struggle within a context of accommodation and resistance. In this historically situated ethnography, I offer an examination of a problem, not a people. By selecting three distinct responses to fisheries regulation on the part of peoples identifying themselves as Stó:lō, I reveal a link between the histories of the individual Stó:lō communities and their specific responses to regulation, demonstrating that connected to those histories are as many different Stó:lō fisheries as there are species of salmon.

The responses examined in this thesis are, in the words of the Stó:lō themselves, rooted in tradition; tradition having become the short answer to questions regarding the Stó:lō and their Aboriginal right to fish. As a part of my examination, I seek to uncover the long answer; more specifically how tradition has come to support these separate and distinct responses to over a century of interference into their way of life.
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"In earlier times this Fraser River resembled an enormous dish that stored up food for the Indians flock here from every quarter to catch the fish that abounded in its waters" (Maud 1982).

"Indians throughout British Columbia have always caught, sold or traded their fish and ...changes in technology and equipment or the development of non-Indian exploitation of the fishing resources could not alter the fundamental fact of Indian sovereignty, Aboriginal rights, and the unity of "food" and "commercial" fishing (Ware 1983).

Domination and resistance: "No simple dialectic...both may be brutal, but often neither is very clear. Domination even at its most violent can still be permeated with ambiguity, uncertainty and peculiar mixtures of fantasy and reality; resistance can occur simultaneously with collusion....having both cultural and political-economic dimensions that sometimes develop in conjunction and sometimes run cross-current to each other" (Sider 1987).

"Tradition names processes of continuing cultural and social construction through which they seek to distance themselves from the dominant society" (Sider 1993).

"...tradition does not appear as a corpus of statements handed down unchanged from one generation to the next. It is a succession of answers to questions about the resent, and consequently it takes on the status of an always correct answer to the questions asked. The questions are those the society is asking itself at the present time (Mauzé 1997).

Fisheries regulations, implemented in the 1880s, banned the sale of Indian ‘food fish’ and resulted in the creation of the categories of “food fishing” and “commercial fishing” - categories that became firmly entrenched in the industrial fishery at the mouth of the Fraser River and actively contested by the Aboriginal peoples fishing the upper reaches of the river. Additional regulations in 1888 contained more comprehensive controls over fishing equipment and methods as well as specific penalties for violations. Protected in the regulations was an Aboriginal right to fish for food. Specific language contained in the regulations upheld the Indian food fishery, declaring that "Indians were to, at all times, have liberty to fish for the purpose of
providing food for themselves, but not for sale, barter or traffic” - casting in stone the concept of a separate fishery for food and a separate fishery for commerce. Cast in stone as well were the ideals of the larger population as to the place of Aboriginal peoples in the fishery.

While simultaneously accepting and rejecting their place in the margins of this fractured fishery, Stó:lō people have consistently maintained that their Aboriginal right to fish could not be cast in these false categories that separate the economic and social components of their way of life. While industrial fishing interests have worked to maintain a separate commercial fishery confined to the mouth of the river, Stó:lō people have fought to keep intact the social and economic aspects of their fishery - sharing fish with family and friends as a part of ceremonies; selling and trading fish with the new immigrants to their land. As noted by Jimmy George of the Aitchleitz (Stó:lō member band) First Nation:

......the DFO stopped us from selling fish. We bartered what we had with other nations for what they had. Now we barter for the dollar to use for something else. My father does not ever remember giving the right to fish away - neither does my grandfather. My grandfather used to trade with people two mountains away for things we didn't have here. (Sqwelqwel's ye Stó:lō. August 1998, Vol. 1, Issue 6)

Such were the historical processes that shaped the lives of the Stó:lō in the post-contact years and figured prominently in the production/reproduction of culture as reflected in the varying responses to fisheries regulation. This thesis examines selected, specific responses to fisheries regulation, focusing not only on the larger colonial/post colonial conflict, but also on the internal conflict inherent in the domination/resistance dialectic. Critical to this examination of the Aboriginal right to fish is the role of the ‘processes of continuing cultural and social construction’ or
tradition as it supports specific acts of resistance.
Acknowledgments

First I would like to thank the Stó:lō People who were so gracious to me and allowed me to spend so many wonderful days in their territory. There are a number of people who shared a great deal of their time with me to whom I must give a special thanks: Grand Chief Clarence Pennier, Chief Doug Kelly, Clem Seymour, Corky Douglas, June Quipp and all the people at Cheam. A special thanks to Grand Chief Archie Charles for letting me visit his dry rack camp and for letting my husband take pictures of his family’s camp. A special thanks to Lester Ned for his gracious hospitality aboard his “lazy white man’s boat” as well as in his home. A special thanks to Isaac Aleck for all the time he spent visiting with me at the beach, showing the important spots along that section of the Fraser River, for taking me out drifting and for all the salmon he gave me. A very special thanks to Ken Malloway who spent so much time with me, talking with me, teaching me, and taking me on my first fishing trip. Oh yeah, and for providing me with my frightening field story! And last, but certainly not at all least, Ernie Crey who has been a tremendous source of information and a friend for several years now. I know I couldn’t have accomplished this without his help and friendship.

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Thanks to my family who have put up with my grouchiness, especially these last few months.

And finally, thanks to my wonderful husband whose love and support helped make this dream a reality.

Borrowing a line from my favorite Marxist, I sum up my approach to life and this wonderful, frightening experience. One…… Two……One, Two, Three…JUMP.

*Steve Earle, “Steve’s Last Ramble” off of Transcendental Blues, 2000, published by Sarangel Music
FOR STEVE WITH ALL MY LOVE
In Remembrance

During the course of my fieldwork, two of the individuals with whom I spent a great of
time - individuals contributing significantly to the completion of this document - lost
loved ones. Out of respect for these individuals and all that they contributed to this
thesis, I would like to remember their loved ones here.

Ernie Crey's sister

In memory of Dawn Theresa Crey

Ken Malloway's son

In memory of Kelly Malloway
Chapter One: To Fish For Themselves - Introduction

“It’s simple - one line on the page,” says one Stó:lō fisher. “Tell them we’re going fishing.” A response comes from across the room. “Let’s go back to our traditional way of fishing - Thursday through Sunday”

July 15, 2002 - I sit quietly against the wall at the far end of the room as band fisheries representatives and chiefs meet to consider the sales agreement on the table before them; an agreement outlining the federal government’s parameters for the upcoming salmon fishery. Twenty-one bands must sign the agreement before the legal sale of in-river caught salmon may proceed. Only eleven bands agree to sign, forcing the sale of Indian caught sockeye to the margins outside of the law. The absence of a sale agreement shifts the discussion to “developing a fishing plan of our own.” Within minutes a plan is committed to paper and circulated to those present for signature. Fifteen bands sign onto the plan. Fishing times for member bands of the Stó:lō fishery are set: 72 hours each week for the month of July and August 2002 starting the week of July 14, 2002, from Thursday 1800 hours to Sunday 1800 hours. Fisheries and Oceans is notified of the Stó:lō fishing plan; their response - no Thursday opening for the week beginning July 14, 2002. It wasn’t as simple as one line on a page.

As Thursday, the first opening day outlined in the proposed plan, approached,

\[1\]From 1951 through 1961, open periods in the Indian Food Fishery were limited to four days per week, year round - 1800 hours Wednesday to 1800 hours Sunday. Beginning in 1962, the number of allowable fishing days was reduced from four days per week to three. Over the decades further reductions in allowable fishing days would be witnessed. The fisher in question was referring to the time when the river was more accessible to the Indian Food Fishery.

\[2\]These times pertain to the set net fishery only - the primary Stó:lō fishery. The drift net fishery was limited to Saturday and Sunday only. The dry rack fishery times were also set for Thursday through Sunday.
debates and objections to the opening continued. Of concern was the effect of the 72 hour opening on the early Stuart run; a run that has been at the center of the Department of Fisheries and Ocean's (DFO) conservation concern for many years and a run that has consistently been fished by Aboriginal peoples all along the Fraser from the lower valley to past Prince George in the central interior. Citing an "inherent Aboriginal right to go fishing," fifteen Sto:lo bands prepared to go fishing with or without DFO approval. Expressing doubt as to the validity of DFO's data regarding the position of the early Stuarts in the river, Bob Hall, Fisheries Portfolio holder for Sto:lo Nation, remarked at the meeting, “The chiefs and fishermen made the decision [to go fishing] based on our own conservation knowledge. The early Stuarts have already passed through our territory.” DFO would agree to the 72 hour opening.

The events of that day in July 2002, clearly depict the specific relationship existing between Aboriginal peoples and the larger Canadian society as it relates to the salmon fishery. The Sto:lo have been fighting for their Aboriginal rights since the first encounters with the Xwelitem. Central to the fight has been the struggle to regain

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3The DFO has had a number of incarnations in its illustrious past. 1867-1884 Marine and Fisheries - Fisheries Branch; 1884-1892 Department of Fisheries; 1892-1914 Marine and Fisheries - Fisheries Branch; 1914-1920 Naval Services - Fisheries Branch; 1920-1930 Marine and Fisheries- Fisheries Branch; 1930-1969 Department of Fisheries; 1969-1971 Department of Fisheries and Forestry; 1971-1976 Department of Environment-Fisheries and Marine Service; 1976-1979 Department of Fisheries and the Environment Fisheries and Marine Service; from 1979 until very recently Department of Fisheries and Oceans (DFO); at present it is Fisheries and Oceans Canada (DFO Factbook, 1993, Department of Fisheries and Oceans, Ottawa, Ontario). In this thesis the following designations for Fisheries and Oceans Canada are used: DFO, Fisheries, Fisheries and Oceans. The designation of DFO is the one used most often.

4Xwelitem translates as "hungry people" and is the Halq;emeylem word used to refer to people of European ancestry.
some measure of control over the natural resources of their territory, resources that were essential to the development of the industrial economies that now dominate Stó:lō territory. One primary battleground for this fight has been the Fraser River, or more particularly the Fraser River salmon fishery. While a great many factors have figured into the Stó:lō’s conceptualization of their fishery, it has been fisheries regulations enacted in the 19th century - regulations that created the artificial categories of ‘food’ and ‘commercial’ fisheries - that has reshaped the Stó:lō’s relationship to the Fraser and its salmon. Collected oral histories refer to stories told by elders of a time when “the Stó:lō went to the river to fish whenever they needed, any time of day, any day of the week.” However, in the years subsequent to intense regulation, federal mandates have determined how, when and where Aboriginal peoples could fish; outlawed the sale of salmon and turned the everyday practice of fishing into a criminal act.

This thesis addresses the Stó:lō’s fight for their Aboriginal right to fish within a context of accommodation and resistance. In this historically situated examination, I focus my study on what I have identified as three separate and distinct responses to government interference into a way of life on the part of a peoples identifying themselves as Stó:lō - Coast Salish peoples with a common heritage, common mythology and ritual - a people among whom social and economic ties are established across community boundaries through marriage. The actions I have identified as responses to regulation range from overt acts of rebellion to simple acts of feeding one’s family. Whether considered typical or atypical this range of actions represents directed individual and/or collective actions designed to effect a fundamental change in
the relationship between the federal and provincial governments and the Stó:lō people and can be considered consistent with the history of the Stó:lō's responses to the advancing loss of their fishing rights. The actions that I have identified as specific responses to regulation include: the participation in direct acts of often militant protest on the part of the Cheam Band; the initiation of a justice diversion program the Seabird Island Band; and the participation in legal sales fisheries conducted under the auspices of negotiated agreements or government licensing requirements. Additionally, I seek to understand how tradition, as it was described to me by the individuals with whom I spoke, supports the specific acts of resistance identified in this study. And equally as important, I seek to understand how that tradition has been shaped and reshaped by over one hundred years of regulation that had, as its mandate, the removal of Aboriginal fishers from the upper reaches of the Fraser River.

In order to address these issues and others, I offer an examination of a problem, not a people; a focus that is not so much on a particular place or group of people, but rather on forms of resistance in response to government regulation. This approach, as described by Dombrowski, seeks to demonstrate the relationship between peoples and their customs within an historical context, by focusing on the dynamacism of ceremonies, customs, relations and patterns of ideas and examining how that “stuff of culture” comes to be caught up with, and becomes part of, the political and social changes people face (2001:4). Dombrowski, following in the footsteps of such historical anthropologists as Eric Wolf and Joan Vincent notes that:

This approach moves away from the classical ethnographic stance that presumed collective identity rather than questioned it....This approach involves placing the emergence of particular peoples and customary practices in an extended historical context. (2001:4)
As did Dombrowski in his examination of the recent emergence of ‘radical’ Christian churches in Native villages in Southeast Alaska, by working backward from the present situation to the context from which it emerged as well as from the context against which it emerged, I highlight the internal struggles supporting these very distinct responses to fisheries regulation.

The Creation of Conflict - Locating the Problem

Ethnographic and archaeological data support the importance of salmon in the Coast Salish diet as well as its importance in Aboriginal economies. Additionally, the importance of salmon socially and ceremonially is revealed in the myths and legends of the Coast Salish people. Historical accounts refer to a time when Stó:lō fishers actively ‘sold’ their catch, first to operators of the Hudson’s Bay Company saltry, and later, to commercial canners. But the emergence of the industrial fishery in British Columbia in 1871 and the subsequent regulations that followed to ensure the steady growth of the industry worked to alienate the Stó:lō from the resource on which they have long relied. Fisheries regulations implemented in British Columbia in the 1880s restricted Aboriginal fishing, reshaped Aboriginal fishing practices and significantly altered Stó:lō economic activity.5

An 1839 census conducted by traders of the Hudson’s Bay Company post at Fort Langley reflected a total population of 2074 for all of the mainland Halq;emeylem

5 The importance of fishing and fish in the diet of the Aboriginal peoples of British Columbia was so apparent that James Douglas agreed from the onset that fishing rights be included in the treaties and other agreements with Native groups. While no treaties were negotiated with the Stó:lō, the importance of the fishery was considered when reserve allotments were made by the Reserve Commission.
tribes of which 1285 were listed as upper Stó:lō and 789 as lower Fraser River tribes (Duff 1952:28-29, 129-130). By 1879 a seven percent population decline would be observed for the upper Stó:lō tribes, this decline likely the result of the 1862 small pox epidemic (Gibson 1982/83). Between 1879 and 1915 another nine percent decline would be observed, coinciding with the Spanish flu epidemic of 1913. This decline in the Stó:lō population would have had some affect on existing economic and family relations in regards to the fishery. And no doubt, these population declines would have made the government’s attempts to regulate the fishery somewhat easier, in that the second decline in 1879 came just as the industrial fishery was expanding.

It was in 1879 that a general Fishery Regulation for Canada was adopted which prohibited salmon fishing without a Department of Marine Fisheries lease or license. By 1888 new regulations were implemented that would contain more comprehensive controls over salmon fishing. Stó:lō fishers found themselves at the mercy of the government and eventually having to violate fisheries regulations in order to procure household staples when they traded salmon for eggs and other food stuffs. As will be discussed in more detail in the next chapter, Stó:lō fishers were the backbone of a cured fish industry at Fort Langley beginning in 1829 and continuing until industrial canning was established on the Fraser. Initially Native fishers figured prominently in that newly emerging cannery fishery, but by the turn of the century they found themselves replaced by Japanese fishers. Again, Stó:lō fishers found themselves at the mercy of the government and again in violation of fisheries regulations as they bartered, traded and sold their catch to make ends meet.

As Native peoples were increasingly being alienated from their land and
resources, numerous other steps were taken to alienate them from their culture as well. Provisions added to the Indian Act in 1927 outlawed Native winter ceremonies and potlatches in an attempt to further strip Native peoples of their culture, forcing them to rely on available wage labor jobs rather than their customary forms of provisioning themselves. Another key component in the hegemonic process that followed in the wake of increased white settlement was the residential school system whereby Aboriginal children were removed from their homes during the school year and placed in white run boarding schools. Residential schools were a core instrument in the government’s attempt to assimilate Aboriginal peoples and children placed in the residential schools were separated from cultural practices and foods. Stó:lō children were sent to the Coqualeetza residential school in Chilliwack before it closed in 1939 and to St. Mary’s Mission school in Mission, British Columbia. Ken Malloway, in an interview with reports from the Chilliwack Progress remarked:

> It was a way for the government through the church, to steal our land and make us over in their image....little brown version of themselves.
> (Wednesday, May 1, 1991)

Stó:lō in their late forties and early fifties with whom I spoke, talked of not being able to eat salmon while attending residential schools, salmon being absent from the school’s meals. They talked of missing the food on which they were raised; the food that was so essential to who they are.

All of these factors shaped the way the Stó:lō viewed their position in the fishery. While they never backed away from their assertion of a right to fish, they were forced to acknowledge their position in the margins of the larger non-Native economy. At the same time, however, Stó:lō fishers were aware of avenues of redress and exercised
those options available. Stó:lō leaders protested, testified in front of Royal
Commissions, petitioned the government and relied on the power of the press to get
out their concerns regarding the fishery. For example in 1914 Stó:lō chiefs placed a
letter in the local Chilliwack newspaper indicating that regardless of attempts to halt
Indian fishing:

We wish it thoroughly understood that we do not intend to stop fishing and
that the Fishery Department has no right to attempt to stop us from doing so
for our own use, as we are the Aboriginal owners of the land and the water,
which provided food for us as in the past and present, and for all time to come.
(Chilliwack Progress, August 6, 1914)

In addition to their submission in the Progress, the chiefs also sent a letter protest to
Ottawa and hired a lawyer to press for damages (Carlson, ed. 2001:181). Aboriginal
efforts to pursue claims for land and resources were halted when in 1927, the federal
government inserted a provision in the Indian Act preventing Aboriginal people from
obtaining legal assistance. This provision was eventually dropped from the Indian Act
and Aboriginal fishing cases made their way through the courts resulting in significant
changes in federal policy but not necessarily in the attitudes of fisheries authorities or
the industrial fishing community. Along with the decades, conflict progressed.
Incidents of the resulting conflict and near battle conditions will be discussed in
subsequent chapters.

Equally important is the role of fisheries regulation in the creation of an industrial
fishery narrative that, while borrowing heavily on the Aboriginal narrative of fishing as a
way of life, denies the legitimacy of an inherent Aboriginal right to fish. In the 1990s
federal policy regarding the Aboriginal fishery began to change. Prior to the Sparrow
ruling in 1990, fisheries authorities were under no obligation to justify closures of the
Indian Food Fishery (IFF) that was created in 1888. As the decades progressed from the 1950s through the 1990s, Aboriginal fishers witnessed significant decreases in the number of days they were allowed to fish. *Sparrow* significantly changed federal policy in regard to when and why the IFF could be curtailed: establishing the criteria for river closures and establishing the Aboriginal fishery as having priority over all other fisheries, and second only to conservation. In the years subsequent to *Sparrow*, industrial fishers realized many of the effects previously experienced by Aboriginal fishers in the past and industrial fishers began to utilize many of the same tactics used by Aboriginal fishers in their fight for a right to fish. Industrial fishers placed full page ads in newspapers pleading their case with pie charts as visual examples of their so-called "marginalization" in the fishery. By way of these ads they sought to demonstrate that with the implementation of new Aboriginal Fisheries Strategy, and specifically the Pilot Sale program that was a part of that plan, industrial fishing opportunities were lost.

A 1995 insert in a Vancouver Newspaper reported that Stó:lō/Musqueam fishers were allowed thirty seven days of fishing from the period of June 17 to September 12.

During the June 17 through September 12 fishery, industrial fishers caught 889,000 salmon in comparison to the Native only pilot sale and food fishery catch of 613,000 out of a total run of five million (this figure includes totals for the Musqueam pilot sales fishery in addition to the Stó:lō fishery. As noted in a later chapter, the total Stó:lō catch for 1995 was 326,700). It was the contention of the industrial fishers that the Aboriginal only fisheries pushed them off the river and worked to destroy a way of life passed down through the generations. A table of catch data in chapter 3 illustrates the Stó:lō total catch of sockeye salmon for the years a sales agreement was in place,
contrasted with the total allotment dictated by the agreements. For the most part, Stó:lō catches did not approach the total allocation, much less exceed it.

Industrial fishers also engaged in protest fisheries and their claims of a government sponsored race-based fishery were eventually upheld by a Canadian court, only to be reversed a year later. Industrial fishers claimed their way of life was eroding at the expense of protecting an Aboriginal right to fish, a familiar narrative as Aboriginal fishers have long claimed that their way of life as peoples of the river was being eroded to support the creation of an industrial fishery. The unavoidable conflict resulting from the collision of these two narratives has been played out on the river and in the court rooms. For the most part the weapons for each side have been the same: armed confrontation met with armed confrontation; court case met with court case; press release met with press release; hegemony met with counter-hegemony. The tool box for each side has been the same.

The Research Problem - Theory and Context

Anthropologists have examined individual and group actions as they relate to social change and the interconnections among Aboriginal populations, the state, natural resources, social/political organization and adaptive strategies from a number of theoretical perspectives including (1) dependency theory models and (2) approaches relying on processual analysis and action theory. Dependency theory approaches have been used to explain the relationship between the state and Aboriginal peoples - these models illustrating the correlation between federal policies and the under-

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6The Kapp decision, which is discussed in subsequent sections of this thesis.
development of Aboriginal economies. Examples of the application of dependency theory in regards to the conditions of Aboriginal peoples include Joseph Jorgensen's examination of the relationship between Native American economies and the U.S. federal government, primarily in regards to natural resource extraction (1978, 1986, 1990); James McDonald's (1985, 1994) examination of underdevelopment as it exists in the political economy of the Tsimshian of Kitsumkalum; and Daniel Boxberger's (1986, 1988, 1989) examination of Lummi underdevelopment and the salmon fishing economy of Washington State. In the case of McDonald's and Boxberger's examination of Aboriginal fishing, the focus is on the external factors that contributed to the underdevelopment of Aboriginal economies; underdevelopment that resulted directly from domination by the larger Euroamerican society. Boxberger's examination of the Lummi fishery reveals that the Lummi, as with the Stó:lō, provided the labor necessary in the formative years of the canning industry as Native people had the requisite skills as fishers and processors. In the case of the Lummi, the earliest industrial operations obtained the majority of their fish from Indian fishers (Boxberger 1988:169). As is discussed in a later chapter, historian Dianne Newell expounds on a similar notation regarding Aboriginal fishing labor in British Columbia; Boxberger and Newell both noting that Indian fishers were eventually forced out of the industry (1988, 1993).

Additionally, processual analysis and action theory have been used to examine social change and the role of individual actors within political arenas as well as to examine motives behind alliances, group formation and adaptive strategies. In his discussion of the effects of government policy on the Quechan Indians of Colorado,
Robert Bee (1981) describes the individual/group relationship and the persistent role of kinship clusters as units of economic adaptation and political action as they relate to the strategies adopted by the Quechan Indians during critical periods of transition.

Considering group formation as it relates to adaptive strategies and social organization among the Coast Salish, Bruce Miller and Jen Pylypa describe Coast Salish groupings as those of large, extended family households (corporate units) whereby family membership is flexible; noting that “although there is pressure to belong to only one family network at any given time, members may relinquish ties to a network in which leadership is weak and affiliate themselves with another family in which their life chances will be improved” (1995:18). Michael Kew and Bruce Miller (1999), writing about the Stó:lō, touch on this notion of alignment and re-alignment in their discussion of locating Aboriginal governments in the political landscapes; the need for flexibility in any government organization.

These approaches provide something of a framework whereby to understand individual action in relation to existing alliances and future alliances given the family/kin driven social organization of the Coast Salish as well as a context in which to consider the unequal relationship between the Stó:lō economy and the larger Canadian economy. In short, they provide a theoretical ‘backdrop’ that contributes to my examination of the effects of a century of fisheries regulation and recent supreme court decisions regarding the present day Stó:lō fishery. However, action theory approaches speak more to questions of how deprived people adapted and/or became socially integrated within the colonizing society and dependency theory has tended to emphasize the overwhelming experience of external factors on shaping and limiting
how subaltern people make their own history. In order to fully explicate Stó:lō fishers' responses to regulation, I seek to push past the bounds of these approaches and models that focus on adaptation and integration, relying instead on an approach that provides for a discussion of agency as it relates to the histories of subordinated populations within the context of the larger dominant history. Therefore I rely on an approach rooted in the notion of historical realism as developed by Gavin Smith as well as supporting discussions of hegemony and resistance as offered by William Roseberry and Gerald Sider.

Gavin Smith's concept of historical realism reflects the need to understand society entirely in historical terms, and partly reflects the need to emphasize the realness of history over its constructedness (1999:15). For Gavin Smith, it is necessary to examine the historical processes as well as the real world forces, conditions and connections contributing to the reproduction of culture. Given this emphasis on the realness of history, Gavin Smith poses questions that examine the potential of human action to effect change, or more specifically, to contribute to the production of history. As Gavin Smith (1989,1991,1999) notes in his discussion of peasant resistance and rebellion in Peru, human action cannot be viewed outside the creation of culture. According to Smith, these acts must be viewed as mechanisms of cultural reproduction or more specifically the protection of a livelihood which is interconnected with a social identity that must be viewed in connection with the specific history/prehistory and economy as well as within the context of a global history and economy (1989).

Winnie Lem (1999), in her discussion of small vine-cultivating farmers in the Languedoc region of France, reveals much the same thing as she describes how the
collective actions of these small farmers can be seen as mechanisms of cultural reproduction. Both Smith and Lem stress the importance of recognizing the heterogeneity of societies as they relate to cultural reproduction. In his discussion of heterogeneity, Smith discusses how a relatively successful rebellion by a peasant community in the face of a large ranch pressing toward capitalist rationalization gives the appearance of a homogeneous group deriving their solidarity from their shared customs and traditions; in essence devoid of internal struggles and differences (1991:201). This notion, I believe, has special implications when applied to the examination of the Stó:lō fishery. In the face of treaty negotiations the appearance of a united front by a homogeneous peoples disguises the differences arising from separate needs within the fishery as well as the external and internal struggles engaging the Stó:lō people. But what forms the main stage on which these dramas of agency are played out - dramas that constitute the production of history and reproduction of culture?

Much has been written regarding the colonial dominance of Aboriginal peoples in British Columbia and the processes of hegemony engendered within that uneven relationship (e.g. Asch 1993, 1997; Carstens 1991; Cole and Chaikin 1990; Culhane 1998, 1987; Duff 1965; Fisher 1992; Fournier and Crey 1997; Kew 1990; Menzies 1994, 1996, 1999, Ware 1983). Roseberry problematizes hegemony and purposes it be used more as a concept not to understand consent, but to understand struggle - the ways in which subordinate populations understand, confront, accommodate themselves to, or resist their domination are shaped by the process of domination itself (1996). Roseberry asks that we explore hegemony not as a finished monolithic ideological
formation but as a problematic, contested political process of domination and struggle (1996:77). Applying Roseberry’s axiom, I strive to understand the varying responses of the Stó:lō in regard to the salmon fishery given their “objective formation in the economic sphere, their social and cultural relations with other groups and the associations or organizations of kinship...” (1996:79). Roseberry’s particular notion of hegemony works to illustrate that “what hegemony constructs, then, is not a shared ideology but a common material and meaningful framework for living through, talking about, and acting upon social orders characterized by domination” (Roseberry 1996:80). It is this common material and meaningful framework that forms the stage for the various responses as played out through the particular configurations of power existing in, and around the salmon fishery, as well as those configurations of power outside the salmon fishery.

Salmon fishing is not only the basis of economic well-being for the Stó:lō; it is also the basis of spiritual and cultural well-being. A century of federal regulation has not negated the economic, spiritual and cultural importance of salmon fishing for the Stó:lō, but it has reshaped perceptions of the future of that relationship. While the early years of federal regulation greatly altered and reshaped the Stó:lō fishery, it has been the implementation of a new Aboriginal Fisheries Strategy and directives imposed in the name of conservation that have contributed most recently to protest fisheries and have placed the responses of one group in opposition to the demands of another group. Indian fishers have found themselves not only ‘doing battle’ with fisheries officers but with each other, or as Sider puts it, “trying not to just understand, but to take control of and reshape the multiple connections between past, present, and
impending future” (1993:xviii). In his examination of Lumbee Indian identity and the processes contributing to the creation of that identity, Sider describes history as fraught with breaks, disjunctions, punctuated by dramatic incidents and episodes, or in Sider's words “far from seamless or running unbroken from past to present” (1993:10). It is along these fissures that identity is created, history is produced and human agency revealed. It is this relationship between the production history and human agency that is central to my examination of the actions and reactions of the Stó:lō fishers and how those actions and reactions reflect different responses to government authority.

As early as 1883 the Stó:lō protested federal interference into their fishery when during the 1883 fishing season the local fish guardian seized a large number of nets in the Fraser River and Indians from Yale to Squamish protested loudly and angrily against the seizures (Ware 1983:17). Throughout the late 19th century and early 20th century protests continued as government regulation heightened. Newspaper accounts from the 1960s, 1970s, 1980s, and 1990s relate acts of defiance on the part of the Stó:lō in direct response to fisheries policies. These newspaper accounts reveal actions and reactions that constitute overt acts of resistance to government inference on the part of the Stó:lō; attempts to affect change in governmental policies. What remains hidden are the less overt actions and reactions employed toward that same end. I seek to reveal those actions.

**Discussions of Resistance**

In his study of the Kwaio of the Solomon Islands as regards their struggle for cultural autonomy, Roger Keesing (1992) takes up the discussion of resistance. Keesing notes that through the works of such scholars as James Scott and Jean
Comaroff (among others) we are shown that for the relatively powerless, resistance may appear in places and in forms that are far from dramatic, overt confrontations that stand out in historical records and news accounts (1992:4-5). Continuing with that discussion, Keesing explains that resistance may be expressed more or less covertly in hundreds of everyday acts and may also be expressed indirectly, deflected in "symbolic" and religious forms, when overt political action is impossible (1992:5). Keesing argues that resistance as a concept is prototype based, iconic-image bound and metaphoric, thus precluding our defining resistance precisely, or specifying features common to all circumstances that can be characterized through this metaphor (1992:5).

Additionally, according to Keesing, resistance is often too general a gloss to put on courses or groups of action taken by individuals that had other motives - often diverse, often hidden from one another. He notes that in relation to the Kwaio, rhetoric of collective struggle and mutual obligation often serves to disguise the motives and ambitions and strategems of individuals (1992:5). In the latter chapters of his 1992 work, Keesing explores a number of the uses of the concept of resistance in explicating relations between dominate and subaltern groups. But more importantly, Keesing cautions against a generalization of resistance when examining varying actions in different phases of history. Keesing also notes that it is imperative we situate events and motives in the historical context of their unfolding and situate representations of them in the historical context of their telling (1992).

In his 1985 work resulting from his fieldwork in Malaysia, *Weapons of the Weak*, James Scott notes that subordinate classes throughout most of history have rarely
been afforded the luxury of open, organized political activity. Therefore he focuses on what he calls 'everyday' forms of resistance that fall short of outright defiance: foot dragging, slander, arson, sabotage, feigned ignorance and false compliance. He also denotes other forms of resistance such as backbiting, gossip, character assassination, rude nicknames and rude gestures. In his work *Domination and the Arts of Resistance*, Scott (1990) defines more clearly his discussions of the 'weapons afforded to the weak'. Scott notes that what may appear to be acts of deference are actually acts of resistance; the appearance of a lack of response is not an indication of acceptance of domination. He also elaborates on what contributes to exploitation. According to Scott, exploitation need not be strictly material, but also includes acts of personal humiliation. Scott talks of social spaces in power relations; discussing those acts of resistance that are reserved for private places and those exhibited in locations of uninhibited speech where hidden transcripts are revealed via approved media (1990:175-6). Additionally Scott discusses how resistance is played out or mediated through and displayed in folk culture or folktales such as the trickster stories of Raven in Northwest Coast mythology and the Brer Rabbit stories in the south.

According to Keesing, Jean Comaroff's (1985) analysis of the Tshidi of South Africa, suggests that we may not want to define resistance solely in terms of conscious and collective subaltern strategies of confrontation and covert opposition (Keesing 1992:215). Comaroff distinguishes between those forms of resistance mediated through political struggle and those of religious forms, noting that among the religious forms political agendas may remain partially hidden. Comaroff's focus is on the internal transformations in productive and power relations as well as the pervasive structural
changes following a century and a half of colonialism via Christian missionaries (1985:1). As part of that study, Comaroff examines the manner in which symbolic schemes mediate structure and practice; how, within a system whose parameters were themselves redefined in the colonial context, there was a complex interdependence of domination and resistance, change and perpetuation (1985:260). Comaroff identifies two domains contributing to the dynamics of Tshidi order: the formal apparatus of power and the implicit structures of everyday practice. Notes Comaroff, just as colonization was a process which over-powered both indigenous institutions and commonsense categories of the Tshidi world, so resistance lay in the struggle to counteract the invasion in all of its aspects (1985:260).

While the discussions of resistance offered by Keesing, Scott and Comaroff do contribute to some degree to an understanding of my discussion of resistance among Stó:lō fishers, it is Gavin Smith's less cognitive approach that best serves my examination of the actions and reactions of Stó:lō fishers. In his 1989 work Livelihood and Resistance, Smith begins his discussion of peasant rebellion in Peru by identifying what he calls the "blind spots" apparent in existing peasant studies. According to Smith, political initiatives have been overlooked in studies focusing on discussions of peasants' livelihoods. Additionally Smith notes, that studies focusing on rebellion and peasants' revolutionary potential overlook how resistance is interlinked with development and development policies. Smith seeks to avoid those blinding spots by carefully constructing the historical context surrounding peasant groups' livelihoods and clearly illuminating how that historical context, development, and development policies are linked to peasants' livelihood and acts of resistance or rebellion in the
production or reproduction of culture.

For Smith, two important factors must be considered in understanding peasant culture. First, drawing on Blanco Muratorio's 1987 discussion of the social history and economics of the High Napo, Smith stresses the importance of not viewing peasant culture as "at first pristine and then invaded from without, but rather viewed as from the beginning the assertion (or failure) of will and identity under conditions of domination and resistance." Secondly, it is essential to recognize peasant cultures as heterogenous - "be it in terms of socioeconomic differentiation, the form of domestic enterprise, or engagement in geographically dispersed sectors of the economy" (1989:27). Smith chronicles the events surrounding a campaign lasting over a hundred years - a war of attrition between the Huasicancha and the haciendas. His work reflects the heterogenous aspects of the Huasicancha through his discussion of their prehistoric past and its connection with their present ways of life and the radical changes experienced in the domestic units essential to Huascicanche livelihoods. He describes how Huascicanche social relations, within the domestic household units as well as within the larger community, reflect not just the production of a livelihood, but the political protection of the conditions necessary for the continued reproduction of a way of life - this "protection" taking the form of acts of resistance and rebellion.

Smith demonstrates that acts of resistance and rebellion cannot be viewed as outside the creation of, in this case, peasant culture. These acts must be viewed as a mechanism of cultural reproduction or more specifically the protection of a livelihood which is interconnected with a social identity that must be viewed in connection with the specific individual Huascicanche history/prehistory and economy as well as within the
context of a global history and economy. According to Smith, his task is modest in scope in that he is not asking 'why' peasants rebel or which peasants rebel, but rather 'how' the rebellion is put together (1989:25). According to Smith it is necessary to rethink the role of leadership as well as the role of unity in discussions of resistance. He further notes that the role of the charismatic leader is overemployed. As notes Smith, too often unity and solidarity in political resistance are diametrically opposed to, and made to be exclusive of, individualism. Unity is seen to rest on homogeneity, and homogeneity is seen to depend on the suppression of individual differences (1989:27).

Stó:lō fishers have consistently protested government inference into their way of life. While those actions or responses have taken varying forms, all are purported to be rooted in Stó:lō tradition. As a part of my examination of responses to fisheries regulation, I seek to uncover the links between resistance and tradition as regards the Stó:lō fishery. However, discussions of tradition can prove problematic. This is particularly true as regards First Nations peoples in British Columbia in that the courts have relied on static notions of Aboriginal traditions that disregard changes in Aboriginal ways of life arising out of engagement with colonial society. In my examination of Stó:lō responses to regulation I attempt to sidestep the problem of 'tradition' by relying on a discussion of tradition that implies a connection to a real or imagined past as identified by the Stó:lō with whom I spoke. By incorporating those elements identified by the Stó:lō themselves, my discussion of tradition reflects the change that comes from the colonial experience. Before examining how tradition supports the specific acts of resistance that I have identified in this thesis as responses to regulation, it is important to first review how the concept of tradition has been
discussed in the discipline of anthropology.

**Discussions of Tradition**

Discussions of tradition have taken the form of those regarding the ‘invention of tradition’ as in Hobsbawm and Ranger’s 1983 work. As a part of this discussion, it is noted how symbols of the colonizer take on ritual meaning among the colonized and become a part of their tradition, a tradition that has been retooled to reflect the needs and agendas of both sides. Cannadine, in his submission to Hobsbawm and Ranger’s collection, notes that during the Victorian and Edwardian eras, in response to the increasing size of the British Empire, the need for symbolic and ritual means to reign over the far-flung territory, legitimating symbols of tradition were not so much ‘invented’ as refined and carefully framed (1983:124).

In his discussion of a “Tradition of Invention,” Michael Harkin (199 ) focuses on how the re-emergence of the past is used as a means of dealing with attempts at suppressing Aboriginal customs on the Northwest Coast of British Columbia. Harkin writes of a Heiltsuk potlach held in 19 , the first one in 50 years as such practices were outlawed in 192 . Notes Harkin, only the older community members could remember attending a potlatch in their own community, consequently very few children spoke the Native language or fully understood the meaning of the potlatch. But it is Harkin’s discussion of the canoe journey or the construction of a new traditional performance that touches specifically on the argument that new traditions are bound to be perceived as inauthentic and false. According to Harkin, the invented tradition of the canoe festival evoked such strong emotion and blending of personal and collective experience that it was made authentic. Although it was new, it was constructed out of
cultural fragments in the manner of a bricolage; individual signifiers all had pre-established meanings. A canoe became not an obsolete mode of transportation but a symbol of, on the one hand, historic culture, and on the other hand, the revitalization of contemporary culture (Harkin 1997:110).

Marie Mauzé, in the introduction of a collection of essays regarding the uses of tradition in Native society remarks on how tradition has come to be viewed as something that is continually being produced and nurtured by new ideas. In short, according to Mauzé, the notion that the present is descended from a traditional past has given way to the opposite notion: the past is reached through inductive reasoning that takes place in the present (1997:6). According to Mauzé:

...tradition is used to justify the present through remembering the past. It interprets the past according to the needs of the present. Thus the past is continually reassessed and reconstructed depending on the course of events.... From this point of view, tradition does not appear as a corpus of statements handed down unchanged from one generation to the next. It is a succession of answers to questions about the present, and consequently it takes on the status of an always correct answer to the questions asked. (1997:6-7)

Essentially cultural factors (or practices) reified in ethnographic monographs not only refer to the past, they become the foundation for present as well as future identities (1997:9).

I believe Mauzé's discussion of tradition has important implications in my examination of the specific responses to regulation I have isolated in this study. The responses examined in this thesis are, in the words of the fishers, rooted in tradition. "Tradition" has indeed become the short answer to questions asked regarding the Stó:lō fishery. More specifically, for Stó:lō fishers, tradition has become a means of justifying the present through remembering the past. However, notes Sider (1993,
2003) tradition cannot be viewed in isolation of history or struggles with outside forces and often forms the bases of internal antagonisms when set into opposition of continuity. In his discussion of the complex connections and oppositions between tradition and continuity, Sider notes that it is necessary to look closely at the forms of social relations, particularly among dominated peoples, to which the word “tradition” refers - relations that often turn out to express claims for autonomy or partial autonomy in the midst of poverty and powerlessness much more than they express continuity with a real or imagined past (1993:11).

In his discussion of the struggle for history, tradition and hope among Native peoples, Sider (1997) discusses the place of experience in that struggle. Drawing on the works of Thompson and Williams, Sider notes that from (and he insists, against) experience come both agency and culture. According to Sider, “experience is social and relational; it is not only socially formed and continually shaped but also names a major arena for the chosen and unavoidable struggles of all forms and processes of differentiation - i.e. class, gender and ethnicity - for it’s both from and against one’s changing specificity that experiences are constructed (1997:62-3). Sider’s discussion of the place of experience as it relates to actions of a dominated peoples provides a framework for examining the emerging identities arising from a remembered the past; a past revealed in the existing literature regarding the Coast Salish in general and more specifically the Stó:lō.

The Research Problem within the Context of an Existing Literature

In one of the most recent discussions of Stó:lō historical identity, Keith Carlson notes the need for the Aboriginal historical experience to be brought “out of the
background” (2003:338). Carlson notes that in general, past stories have essentially portrayed western colonialism's impact on Aboriginal people from the colonial perspective. According to Carlson:

...within this interpretive framework, Native people are principally foils used to critique and expose the excesses of western colonialism and capitalism....preventing indigenous people from being portrayed as anything more complex than reactive victims in the history of western development and more recently as ecological prophets for a society that experiences pangs of guilt over its consumptive past. (2003:338)

By examining the historical experiences of Stó:lō fishers within a context of agency and through the dynamicism of tradition as it supports specific responses to regulation, their historical experiences are indeed removed from the shadows. What must not be discounted, however, is the contribution of these past portrayals to emerging identities and reconfigurations of power, particularly as regards access, to and management of, fisheries resources as Stó:lō fishers have simultaneously advanced a portrait of themselves as the first commercial fishers and ultimate guardians of the salmon resource.

In her historical account of the circumstance and situations that contributed to the past and contemporary identities of the Indians of the Puget Sound, Alexandra Harmon notes that, contributing acutely to this identity is the relationship that developed between traders and Indians (1999). From Harmon's discussion of the partnerships (trading, marriage, etc) that developed as non-Natives settled in the area, it becomes clear that an Indian identity emerged within the space where white economies intersected with Indian economies. As with the Stó:lō, access to natural resources, primarily fisheries resources, is at the core of that intersection. Harmon notes that since at least the 1880s U.S. officials have set the parameters of Indian identity for
purposes of political and property relations, but they have never monopolized the process of defining ‘Indian’ or ‘tribe.’ Such classifications and their meanings have evolved from negotiations between classifiers and classified. Harmon’s observations of the creation of an Indian identity among Puget Sound Native peoples leaves open the door for contributions to identity construction by Native peoples themselves. Harmon’s discussion regarding the creation of identity directly informs this study in that specific identities arise in connection with acts of rebellion and resistance on the part of Stó:lō fishers.

One of the most recent discussions of Stó:lō peoples focuses on the implementation of Aboriginal justice programs. Through his case study of Aboriginal justice programs in three Coast Salish communities, Miller problematizes the concept of traditional justice as it applies to continuity with a primordial past (2001). Miller notes that the communities on which he focuses are not merely linked by an abstract participation in a language community rather they are members of a broader network of social relations with considerable time depth (2001:7). The community justice programs in Miller’s study include the Upper Skagit Court, the South [Vancouver] Island Justice Project and the Stó:lō Nation justice initiatives. Examining each case individually, the Upper Skagit Court, the oldest of the three programs examined, was established following the legal decision, U.S. v. Washington in 1974. As a part of this landmark legal decision the Upper Skagit and other tribes in western Washington regained access to the salmon harvest as specified under the terms of the western

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7 Bruce Miller’s case study includes the same community on which I focus my examination of resistance and accommodation as it is played out in the salmon fishery.
Washington treaties signed in 1854-56. Explains Miller, the ruling created the need for a venue in which to try fishing violations in order that the tribe could manage its own fishing interests along with the state and federal government (2001:7-8).

The second program examined is the South [Vancouver] Island Justice Project which emerged out of an effort in the 1980s to educate mainstream legal personnel about Coast Salish practices and concepts. He notes that the project became a diversionary justice project in which cases could be treated by Coast Salish peoples themselves (2001:8). And finally, Miller focuses on the Stó:lō Nation justice initiatives that arose in the 1990s out of three primary motivations: 1) to create a justice program that could be put into place following treaty negotiations with the province and federal governments and thereby assert Stó:lō rights and title; 2) to implement Stó:lō cultural practices as they pertain to justice; and 3) to begin a process of restoring communities to a state of health, viewed holistically.

According to Miller the "problem of justice" includes one of resolving the pressures and difficulties imposed on indigenous communities from the dominant American and Canadian societies in reestablishing internal control over the practices of justice. Miller discusses the problems by first, identifying past justice practices as applied to present day circumstances and then by discussing how attempts are made to reconcile the past and the present among the people relying on those practices. Rather than providing a primordialist account of justice, Miller's historically and politically charged account of Coast Salish justice systems focuses on how colonial processes have transformed and distorted the politics of indigenous communities, including the ways in which community members understand their own prior practices.
of justice (2001:201). Miller notes that his use of the term ‘tradition’ points to its place in the discourses produced and the play of power in present-day communities (2001:35). Drawing on Mauzé’s discussion of tradition as it relates the present to the past, Miller emphasizes her notion that “tradition is primarily a political instrument for regulating both internal and external relations” (Mauzé 1997:12 in Miller 2001:35). It is Miller’s employment of the related concepts of resistance and accommodation within indigenous communities as it relates to the implementation of traditional justice programs in Coast Salish communities that informs my examination of Seabird Island’s protocol agreement.

Additional discussions of Coast Salish and specifically the Stó:lō include the non-material discussions of Coast Salish peoples and power relations such as Jay Miller’s examination of Lushootseed culture and Crisca Biertwert’s poststructural “bricolage” that focuses on Coast Salish figures of power and power relations as they relate to Indian agency. In his 1999 work, Lushootseed Culture and the Shamanic Odyssey: An Anchored Radiance, Jay Miller notes that when trying to explain their present condition to outsiders, contemporary Lushootseed elders often distinguish between culture and survival to express the recent changes that have greatly impacted their lives and communities. According to Jay Miller, survival is what people do to keep themselves and their families in food, clothing and other necessities including, since 1850, off reservation wage labor which he maintains contributed to the loss a Native community and a loss of full participation in family life. Survival also means relinquishing Native elements of life - language and traditions that interfere with education. Culture is the quality of a lifeway based in the land and is not the same
thing as survival or earning a living by exploiting the same terrain.

Jay Miller also focuses on the role of shaman in Lushootseed society - lifecycles, death, marriage, puberty, cures. He talks of spirit bonds - the hallmark of life was the existence of immortals - and describes Lushootseed life as experienced through the shamanic odyssey. In its full complexities, the shamanic odyssey involved all of the institutions of Lushootseed society, ranging through technology, economy, polity, kinship, religion and language. According to Jay Miller, technological relations with the environment were at the forefront of the rite.

As a part of her discussion of Coast Salish power relations, Bierwert situates the Stó:lō on the landscape by attempting to give an historic and economic profile through a narrative analysis of cultural complexity. Drawing on the works of Casey, Myers and Basso, Bierwert talks of points and places in and along the river possessing spiritual and social importance as part of her discussion of place. She draws a Coast Salish parallel to Basso's storied landscape of the Western Apache through her discussion of five ways to know a place i.e. the fish camp: 1) a natural place - image evoking language of the river, the banks, the landscape and the fish 2) social place - describing the camp physically but also the work that takes place, the atmosphere, the family interaction 3) a source of danger - describes the physical characteristics of the river's edge, the canyon that makes it dangerous, again with image evoking language 4) historic place - makes this point by relating the stories of how Lady Franklin rock came to be named by the non-Natives 5) mythic place - stories of the transformed rocks that denote the place as spiritual. Bierwert takes on the subject of knowledge and power in her discussion of how texts are constructed by the Native and non Native world and
world and what the implications are for both.

The most recent indepth, grassroots examination of the Stó:lo fishery is Bierwert's discussion of the Indian business of fishing (1999). Regarding her discussion of the fishery, Bierwert notes that her aim is to illuminate the historical tensions created through the reckoning and regulation of Indian fishing practices, whereby she describes the collective salmon runs as contested sites (1999:38). Specifically regarding the business of fishing, Bierwert describes a river fishery conducted outside the sentence of the law. Bierwert writes that:

Fishing legally has meant fishing in prescribed places within enforced hours with limited technology, cutting off the noses and dorsal fins of the catch [to mark them as Indian fish].....In fact Indian fishing has long exceeded these limitations and involved a variety of renegade practices (keeping alive a considerable knowledge of the river), and hauling contraband (unmarked) fish in sacks or plastic garbage bags for sale to dealers. (1999:224)

Bierwert's description of Indian fishing paints a romantic picture of resistance on the part of Stó:lo fishers. While factually describing a way of life, Bierwert's portrayal of the fishery distinguishes the cultural practice of fishing (illegal fishing) from the business of fishing (legally negotiated sales agreements). In my conversations with Stó:lo fishers I heard these same stories about which Bierwert writes. However, I also was part of discussions regarding the practical business of fishing; profit and loss, crew payments, capital expenditure, overhead, preparation for the prospect of a sale agreement and preparation for the prospect of no sale agreement.

Bierwert's examination, as with Jay Miller's, separates the material from the cultural. In contrast to Bierwert and Miller's less material discussion of Coast Salish and Stó:lo life, Daniel Boxberger's examination of the Lummi fishery focuses on the very real material aspects of Coast Salish life in his discussion regarding Lummi fishers and
the way they have been included and excluded from the commercial fishing industry. Boxberger's approach to the study of internal dependency examines access to resources as well as control over productive resources. By documenting the change in fishing technology intended to increase harvest, in concert with changes in policy, Boxberger provides a point of departure to investigate the Lummis as a specific user group within the salmon industry.  

According to Boxbeger, the changing patterns in the utilization of the resource and the concomitant changes in the society can be seen as the direct result of the tribe's domination by the larger society. Boxbeger points out that besides political and economic activities, the dominant society brings its own technology; dramatically new technology that tends to redirect many aspects of traditional societies, for the most part supporting the ideology of the social system that introduces it. He notes that some tribal members saw actions by the tribal council to limit entry as a mechanism for protecting their own interests, since several tribal council members owned purse seine vessels and were successful fishers (after the Boldt decision). According to Boxbeger, by carefully selecting crew members and by assisting others to enter the fishery, a strong faction was created that aided in acquisition of political power through elected office and through support of the decision making process. Additionally

8 Stō:lō fishers with whom I spoke take exception to a designation of user group within the salmon fishery. Such a designation does not reflect their place in the fishery as the original users, managers or stewards of the resource. It also removes any spiritual connection to the resource.

9 In 1974 United States Federal District Court judge George Boldt handed down a decision defining Indian fishing rights and guaranteeing treaty Indians 50 percent of the allowable harvest of salmon (Boxberger 1989:1). The case, United States v. State of Washington, is generally referred to as the "Boldt decision."
according to Boxberger, a parallel structure exists at Lummi where a small faction of the tribe, the purse seine operators who take over sixty percent of the total Lummi fish harvest, control the decision-making body of the tribe. Since class relationships are economic relationships, it is important to understand the place in the class structure of the society in which they are a part. Boxberger notes that the Lummi were part of the capitalist economy prior to Boldt, in that the pre-Boldt fishery existed as a supplement to other forms of income. According to Boxberger, what emerged in the post-Boldt fishery was a highly capitalized fishing fleet geared toward the market. Notes Boxberger, the growth of this highly capitalized fishery created a distinct economically elite segment of Lummi society, a segment that did not exist prior to 1974.

**Stó:lō Fishers Respond**

By engaging the aforementioned works, I examine selected, specific responses to fisheries regulation focusing, not only on the larger colonial/post colonial conflict, but also on the internal conflict inherent in the domination/resistance dialectic. Critical to this examination of the Aboriginal right to fish is the role of the processes of continuing cultural and social construction - tradition - as discussed by Mauzé and Sider and expressed in specifics acts of resistance and accommodation. Essential to my discussion is the relationship between experience and tradition and the manner in which that relationship contributes to specific acts of resistance and accommodation. Given that tradition is dynamic and socially constructed, how is it shaped/reshaped by the histories or experiences of the Stó:lō in the context of the larger Canadian history is essential to an understanding of agency. Specifically, I seek to identify the particular competing and antagonistic interests shaping Stó:lō fishers responses to regulation: 1)
To what extent are they supported by traditional practices as well as the contemporary political structure of the Stó:lō Nation? 2) How are they shaped by the experiences of the Stó:lō? 3) To what extent do they reflect existing configurations of power within and outside of the larger Stó:lō collective?

State practices regarding Aboriginal fisheries have been, for the most part, products of fisheries regulations imposed over the last century. Recent supreme court rulings have brought about some changes in federal fisheries management plans and Stó:lō fishers have responded to these changes in a variety of ways that are, at times, in conflict with each other. When examining the responses to regulation on the part of Stó:lō fishers, the fact that there are numerous responses must be noted. What is important to note, that while for the purposes of my examination of the fishery I focus on three responses aside from Bierwert's "outlaw fishing" response, the single most visible response is simply to go fishing. I found that a number of the fishers with whom I spoke had a non-specific, general knowledge of fisheries regulations and that upon comparing the information I received regarding those regulations, differences in understanding just what the rules are were apparent. These differences were even more apparent in the lack of understanding of how the Pilot Sale Arrangement worked and why it ceased. The one rule about which there was no question but much debate was the fact that the sale of in-river caught salmon was against the "white man's law." What happens when that "white man's law" is broken?

Stó:lō fishers say they are the original commercial fishers. The sale and barter of fish has always been integral to Stó:lō life. With the emergence of the industrial fishery and the implementation of fisheries regulations, the experience of fishing was
forced to the margins outside of the law. Commercial fishing has continued with the label of commercial fisher becoming a badge of honor or tradition. Writes Bierwert:

Indian fishers have insisted on selling fish, have forced themselves to act counter to enforcement where no option of an informal economic sector has allowed their subaltern practice a cover to thrive. Outlaw fishing thus has actively engaged with state power and with corporate enterprise, and the contests of power that are particular to it reveal cross-cutting intersections of law and marketplace that pose in political discourses as intersections of race, culture, and economy. (1999:243)

In essence Stó:lō commercial fishing takes place within a space bounded by tradition and state regulation. It is on this space that I concentrate my examination of Stó:lō commercial fishing, including rather than denying, both edges of the space. Stó:lō fishers continue to push for a formal agreement that provides for the legal sale of in-river caught salmon and did succeed in obtaining a small agreement in the fall of 2003 after Fisheries and Oceans withdrew the sales agreement covering the 2003 summer sockeye run. Through my selection of three specific responses to fisheries regulation I juxtapose what can be seen as simultaneously converging and diverging acts of resistance and accommodation. I posit a notion that agency is manifest as two sides of a single coin - resistance and accommodation - and is not limited to acts conducted

10For the purposes of my examination I limit my study to those groups comprising the nineteen Halq'emeylem speaking bands comprising the Stó:lō Nation. My focus is on the “commercial” fishers among those bands. Initially as a part of the 1992 Pilot Sale Arrangement Musqueam and Katzie fishers were included with these Stó:lō bands in calculating salmon allocations. That changed the next year with Musqueam receiving a separate allocation. Katzie continued to be included with the remaining Stó:lō bands. While considered as Stó:lō in some of the ethnographic literature, political affiliations in the wake of treaty negotiations have shifted identity designations to some degree. Hence, the Musqueam and Katzie peoples are generally referred to as Stó:lō in heritage. The Musqueam and Katzie bands have fishers who hold industrial fishing licenses not held by the fishers comprising my study aside from one fisher, Lester Ned. This reality leaves the door open to future examination regarding the relationship between the Native and non-Native industrial fishery.
outside the margins of the law. While I maintain that the predominate response to fisheries regulation is simply to go fishing, by focusing on three differing and high profile responses to regulation, I seek to demonstrate that the Stó:lō responses to regulation represent more than a shared ideology, but a common material and meaningful framework rooted in tradition for living through, talking about, and acting upon social orders characterized by domination.

In chapter 4, I examine Cheam's particular position regarding the Aboriginal right to fish and the role of tradition in the creation of their persona of "Warriors on the Water." I also examine how that particular stance shapes the band's relationship with the larger Stó:lō community. As a part of my discussion I chronicle the numerous confrontations between Cheam and fisheries officers, confrontations that have on occasion resulted in combat on the river and in one instance brought railway freight traffic bound for the west coast to a halt.

In chapter 5, I examine the Justice Protocol Agreement initiated and signed by the Seabird Island Band in their attempt, in the words of the individual who spearheaded the implementation of the agreement to "build a foundation of a new relationship." As a part of my discussion I identify the elements of the agreement and how it is to function. More importantly I pose the question, "Can a collaboration designed to bring resolution function within a framework of regulation, that for some inside [and outside] the community has no resolution when set within the context of the Aboriginal right to fish?" Specifically, I seek to establish a link between the justice agreement initiated by the Seabird Island community and the unique history of that community as well as with the fishery that has become closely associated with them.
Additionally, I seek to uncover to what extent the unique characteristics of the wind dry fishery has contributed to the implementation of Seabird Island Justice Protocol.

And finally in chapter 6, I focus on the those fishers who seek to make a living from fisheries resource and who have, over the years fought for a legal right to sale their fish. As a part of my examination of the "highliners and moneymakers" I ask the question, "Is Bierwert's outlaw fishing and the continued trade, barter or sell of salmon an overt act of resistance or simply life, lived?" But more importantly I ask, should the participation in the legal sale opportunity be seen as less traditional than outlaw fishing? Even more importantly, is participation in that fishery any less an act of resistance or rebellion on the part of a people seeking to control some measure of their own destiny?

The Problem of Research

Conducting any research among human subjects is a daunting task fraught with numerous ethical snares and traps. The task is made more problematic when the participants and/or their specific goals or aims are put in jeopardy by the mere presence of the researcher. A case in point is Avram Bornstein's work among the West Bank Palestinians. Bornstein notes how he, a Jewish American anthropologist conducting fieldwork among Palestinian families in the West Bank, presented the greater potential danger to his hosts. As Bornstein writes, "Umm Samud (the mother of the household) was always keeping track of my whereabouts and warning me to be careful.....If something happens to you, the Israelis will put us all in prison" she said (2002:21).

Similarly, regarding his work among the Lumbee Indians of North Carolina,
Gerald Sider talked briefly to me of the problems of chronicling shifts in identity for Native American peoples in the process of seeking federal recognition; a process whereby one of the requirements is identification as an Indian entity by anthropologists, historians or other scholars. Upon explaining my own research among a people actively involved in treaty negotiations and seeking to advance their Aboriginal rights, in particular their rights to the salmon resources of Fraser River, I asked Gerald Sider if his work among a group seeking federal recognition had been difficult. His reply, "It's a pain in the ass. You have to be very careful."

While I wouldn't go so far as to characterize my particular situation as a "pain in the ass," I was however, cognizant of the potential effects my presence had on my research, striving to always be aware of those times when I was being used as a "vehicle for a message." This is not to say that my field experiences were superficial, they were not. However, the folks with whom I spoke had long ago recognized what "anthropology was capable of doing - the good and the bad." Several of the Stó:lō people with whom I spoke, talked of the things early anthropologists had "gotten wrong" and mentioned by name those anthropologists whom they felt had actually caused them harm. This was particularly important to them when they felt that harm had came in the form of court testimony as most recently, the courtroom has been the arena in which battles regarding Aboriginal fishing rights have been won and lost.

As Bornstein states, ethnographers cannot extricate themselves from unequal relationships and should be careful about writing texts that attempt to stand outside the world of struggle, contest and competition (2002:viii). In the case of my work with the Stó:lō, disassociation or extrication was impossible. But this does not mean that I
sought adoption into a family or the ascription of an “Indian name.” It does mean that I did indeed find myself in the position of advocate, not just in the struggle with the Canadian state over Aboriginal rights, but also as advocate for one Aboriginal group over another; a situation that for some time caused me some measure of anguish. I have since come to the conclusion that my actions in regard to that situation were, while I felt at the time the only thing to do, indeed the right thing to do. The goal of my research is an honest discussion of the power struggles between the Stó:lō and the state as well as the power struggles among the Stó:lō themselves and how those struggles are inherent to the colonial experience.

My relationship with the Stó:lō began in 1996. That year the Supreme Court of Canada ruled in *Vander Peet* that sufficient evidence did not exist to support the fact that a 'commercial' salmon fishery is integral to Stó:lō culture or heritage. This was a major blow to Stó:lō fishers. Through contacts I made with individuals in the Aboriginal Rights and Title Department at Stó:lō Nation I was introduced to Grand Chief Clarence "Kat" Pennier, Stó:lō Fisheries Executive Director Ernie Crey and Fisheries Portfolio Holder Lester Ned. In 1997 I contracted with Stó:lō Nation to produce a report on the traditional and contemporary relationship between the Stó:lō people and the salmon resource of the Fraser River. I spent the next 18 months combing through the Stó:lō archives and talking with Stó:lō people about fishing. About this same time I was accepted into the Ph.D. program in anthropology at the University of British Columbia with the notion of continuing my research on fishing among the Stó:lō.

While I had remained in contact with some of the Stó:lō people whom I had met in 1997, primarily Ernie Crey, my fieldwork for this thesis began in earnest the summer
of 2002. I relied on the contacts I established in 1997 to secure interviews for this research. At one point this proved problematic when Ernie Crey, my main contact in the fishery, was dismissed from his position with Stó:lō Nation as part of what some explained to me as "Nation politics" as well as an effort to shift the direction of the Nation's fisheries agenda. By attending fisheries meetings I was able to make new contacts. Not only did my presence afford me the opportunity to secure future interviews, I was also able to observe the collective actions of a peoples asserting their Aboriginal right to fish; actions that were at times contentious.

Eric Wolf writes that ultimately in a field study you may come to know about fifteen people very well, another twenty-five reasonably well, and perhaps a hundred well enough to know their names, where they live, and how they are connected to others by kinship or marriage. You come to know some people "in the round" and others only as if typecast into two-dimensional categories (2001:52). According to Wolf, it is from this information that one constructs maps of social relationships through descent, inheritance and marriage or of relations between storekeepers and debtors, owners and tenants, leaders and followers, patrons and clients (2001:52). As regards the Stó:lō, also mapped are the power relations within the individual Stó:lō communities as well as between those communities and the larger collective of the Stó:lō community.

While salmon is a fundamental part of Stó:lō life and lifeways, roughly less than one-sixth of the Stó:lō population are active fishers. In general those actively involved in the practice of fishing are also actively involved in the protection of fishing rights. I was ever aware of the legal ramifications facing Stó:lō fishers and I took great care to
avoid placing them in any adverse situations. Hence, those fishers already in the public eye became the core contributors to my study. In many cases I included the names of the Sto:lo fishers with whom I spoke. This was done with their permission and at times at their insistence. I used the names of only those people who have made public statements, in general to the press, regarding their Aboriginal right to fish, and the specific manner by which they have advanced that right.

Essentially, fishing is a Sto:lo practice; not strictly a female practice or, as the case of the industrial fishery, strictly a male practice. For that reason, I use the term “fisher” rather than “fisherman” or “fishermen” in the course of my discussion.

Conversations with Sto:lo fishers did reveal that in the early days of licensing, it was primarily ‘the man of the house’ who obtained the fishing license. However, I was also told stories of women fishing in that same capacity during those early days, a case in point, the story told to me by Grand Chief Archie Charles who was 83 years old at the time of my interview. During the course of my field study I observed both men and women actively involved in fishing activities and I engaged both men and women in discussions regarding all aspects of fishing and attitudes toward fisheries regulations. I also observed women in leadership roles at fisheries meetings, their agenda being consistent with that of their male counterparts. What seemed to drive the agendas of all in attendance - male and female - was the ever shifting political wind.

Consequently, after two summers in the field, what emerged was a predominantly male core of contributors to this study. This is not to say that the contributions of female fishers were set aside or not incorporated into the final data analysis.

Following Dorothy Smith’s call to “problematize the everyday” (1987), the life
histories and stories collected for this study are not subjected to an intensive content analysis. Narratives are analyzed from the perspective of the respondents. That is, from the stories and the “accounts of their everyday experience” I move to exploring from that perspective the generalizing and generalized relations in which each individual’s everyday world is embedded” (Smith 1987:185). By employing this form of analysis, I attempt to de-center the imposed narrative form of the researcher by listening not just the form, but to the content of the narratives of life along the river. This approach works to ‘decolonize’ research methodology (Linda Tuhiwai Smith 1999).

My two summers among the Stó:lō fishers were, in a word, idyllic. For the most part I spent the weekends alternating between sitting along side the river at Cheam to braving the white waters of the Fraser Canyon, setting and checking nets. These adventures were broken up by attending fisheries meetings at Stó:lō Nation and trips to libraries and archives. One of the highlights of my summer observing fishers - aside from my near death experience in the canyon - was the time I spent at Grand Chief Archie Charles’ dry rack camp in the canyon. Grand Chief Charles, 83 in 2002 when I interviewed him at his canyon dry rack camp, talked of his regular trips to the camp each July for the last 58 years. He talked of the river closures that prevented his family from fishing during the critical early/mid July period when the canyon conditions were right for drying. Perhaps one of the things that made my visit at his family’s camp so

11My thanks to Dr. Charles Menzies, my PhD advisor, for pointing me in the direction of Dorothy Smith’s call to ‘problematize the everyday.’ This paragraph borrows from Dr. Menzies' adaptation of the analytic approaches of Dorothy Smith and Linda Tuhiwai Smith.
special was the comment Grand Chief Charles made upon reading my research release form. After reading over the page and signing the form, he remarked "It's about time."

During my time spent along the river at Cheam, I observed the activity along the beach while engaging in casual conversation with families fishing - conducting formal interviews with some. As with the experience at Cheam, while attending fisheries meetings, I would move around the room, introducing myself and chatting casually with those in attendance. At times I would conduct formal interviews with those having time to spend with me before leaving the meeting room. For the most part, my time in the meetings was spent observing the interaction of fishers as attempts were made to force everyone's agenda into a fishing plan that was satisfactory to Stó:lo fishers and somewhat compatible with Fisheries and Oceans conservation needs. More times than not, Fisheries' needs were discounted as valid for consideration.

The specific actions on the part of Stó:lo fishers that I have identified as responses to fisheries regulations 'presented' themselves to me after I had spent a few months in the field talking with Stó:lo fishers in different communities and after observing the on going discussions that took place in the fisheries meetings composed of fisheries representatives from each of the Stó:lo bands. It became clear to me, that while for the most part, Stó:lo people simply wanted to 'go fishing,' others had very clearly defined agendas and needs that defined their particular actions regarding fisheries regulation. In the case of Cheam, the actions of those fishers have been front page news for many years. However, some of the aspects of the agendas or needs behind those actions were less apparent. Upon investigating the less visible aspects of
Cheam's particular response to fisheries regulation, it was clear I needed to examine other actions that appeared, on the surface, to be vastly different and counter to one another in a effort to gain insight into this fractured fishery.

The particular responses on which I focus provide insight not only into a fishery fractured by the regulations of the 1880s, but also by the varying ways through which Stó:lō fishers assert their Aboriginal right to fish. As I've mentioned previously, for most Stó:lō the typical and single most important form of agency is simply to go fishing. However, the three different responses on which I focus in this work reflect not only the differing expressions of agency, but differing ways by which some Stó:lō fishers wish to be identified. These identities stem from the experiences of the residential school system, the regulatory system that has essentially made them outlaw fishers and the economic system that some seem willing to exploit as a means of garnering "legitimate" capital. These identities represent assertions of power as Stó:lō fishers seek to work against those same experiences. While on the surface the ties that bind the responses on which I focus may not be readily apparent, indeed, all three responses are profoundly connected. Based on my conversations with Stó:lō fishers, all three responses are considered by the Stó:lō fishers to be an affirmation of the Aboriginal right to fish. All are said to be rooted in tradition and all work to support a 'Stó:lō' identity. Additionally each response provides a particular insight into the varying facets of a fractured fishery. More importantly, reflected are the rough edges of the fractured pieces that are often forced together. Identified are the fissures along which, as Sider notes, "identity is created, history is produced and human agency is revealed (1993).

During the summer of 2002, an inventory of Stó:lō fishing sites was conducted.
As a result of that survey over one hundred fishing sites below the Fraser Canyon were mapped. My examination of responses to fisheries regulation focuses on areas included in that inventory as well as sites located in the canyon. While there are correlations between the responses I identify and the locations of the communities and fishers on the river, it would be too simple to make a direct correlation between sites and responses. Cheam's location along the river does indeed make easier the implementation of their particular strategy of defiance. The fact that the railway runs through their reserve has been a key factor in their ability to draw attention to fight for the Aboriginal right to fish. This was evident when in 1993 under the direction of Sam Douglas, members of the community blockaded the railway until the fishery was reopened. When examining the relationship between site and response in regards to the Seabird Island community, a correlation is indeed evident. This is compounded by the fact that some of the members of the Seabird Island community are related to members of the Cheam community and Cheam band members also maintain fishing sites in the canyon alongside Seabird Island members. Cheam's response to the canyon fishery mirrors that of their fishery along river on their reserve. Simply stated, they do not check their militancy at the doorstep of the canyon.

Approximately two thirds of the salmon caught by Stó:lō fishers are caught in the canyon; and a large share of that two thirds is caught by Ken Malloway. There is no question regarding the correlation between Ken Malloway's access to the canyon fishery and his ability to profit from that fishery. Along these same lines, there is little question regarding the correlation between Lester Ned's gillnet operation below the Mission Bridge and his ability to turn a profit in the fishery. What complicates the
The People of the River: Contemporary Times

...My history tells me that salmon is the reason I am here. We are salmon people. The history of the salmon in this part of the world is my own people's history. The salmon, and the Fraser River, define who we are. We take our name from the word that we give the river: Stó:lō. Our history tells us that at the beginning of the world, salmon was given to the Stó:lō by X̱axa:l, the creator and great Transformer. He taught us how to survive by maintaining a good relationship with salmon. He taught us how to fish for salmon, how to cook it, and how to look after it. (Ernie Crey, 1997 in You Are Asked to Witness, Keith Thor Carlson ed.)

The Halq'emeylém speaking tribes living along the lower 105 miles of the Fraser River took their name Stalo or Stó:lō from the Halq'emeylém word sta'lu meaning 'river' (Duff 1952:11). Today, the peoples identified as Stó:lō by Duff, continue to be collectively know as Stó:lō or River People. However, as Carlson (2003) notes, whether the term Stó:lō implies simple cultural similarity, social affiliations or some degree of political unity, is hotly debated. According to Carlson, some Aboriginal people regard the meaning behind the term Stó:lō as a construct of the Western intellectual tradition, others "going so far as to dismiss the notion of a Stó:lō collective
identity as a duplicitous fiction created by nefarious academics and Canadian politicians to facilitate the erasure of more traditional tribal - and settlement based forms of identification and political authority" (2003:6). Still others regard Stó:lō identity as "an ancient and meaningful affiliation with particular relevance to the contemporary racially charged political situation" (Carlson 2003:6).

In his discussion of Stó:lō political identity, Carlson notes that events of the late 19th century forced a rise in a supra tribal Stó:lō identity (2003:41). According to Carlson, this was not because of any past mandate for such collaboration, but was a function of necessity as groups came together to protest the banning of the potlach and ever increasing fisheries regulations that worked to force Aboriginal peoples off the Fraser (2003:41). As explained by Carlson, popular perceptions to the contrary, the history of Aboriginal collective identity is the story of a complicated process of change, shaped as much by internal divisions as external forces (2003:42). This concept is evident when examining the collective identity of Stó:lō fishers. Twentieth century pressures - many of those surrounding fisheries issues - forced the coming together of Stó:lō peoples as a single political voice. The coming together occurred in 1989 when, in an effort to present one powerful voice, more than 50 representatives from 16 Stó:lō communities gathered around a table in the Seabird Island community hall to plot a unified course for Stó:lō fishermen in the face of ongoing conflict with the federal government over Aboriginal fishing rights (Chilliwack Progress, May 3, 1989). This attempt at bringing the bands together to address their concerns in any kind of formal
unified entity did not prove successful.\textsuperscript{12}

Another attempt resulted in the creation of the entity known as the Stó:lō Nation Society, representing an aggregate population of about 6,000 souls identifying themselves as Stó:lō.\textsuperscript{13} This newly created entity represented an amalgamation of the Stó:lō Tribal Council and Stó:lō Nation Canada bringing together 19 of the original 24 Halq'emeyem speaking communities along the Fraser River. These bands include: Aitchelitz, Chawathil, Cheam, Kwantlen, Kwaw-kwaw-a-pilt, Lakahahmen, Matsqui, Shxw'ow'hamel, Popkum, Scowlitz, Seabird Island, Skawahlook, Skowkale, Skway, Soowahlie, Squiala, Sumas, Tzeachten and Yakweakwioose. The Stó:lō Nation Society began negotiating with Canada and British Columbia on behalf of 17 of the 19 bands represented.\textsuperscript{14} According to Kew and Miller:

Tribes are umbrella organizations composed of several culturally related bands. They exist to create an economy of scale in providing services to band members, to create a more powerful political presence in the province, and as a recognition of a common nationality among the member bands. In

\textsuperscript{12}When I talked with Ken Malloway fairly recently about the possible dismantling of the Stó:lō Nation, he discussed how an attempt was made in the late 1980s to bring Stó:lō people together in a unified body. He noted that it didn't work then and that many of the problems existing at that time remain.

\textsuperscript{13}It is this group that forms the collective at the core of my study.

\textsuperscript{14}In July of 2004 the Stó:lō Nation government split into two rival groups. Eight of the nineteen Stó:lō bands that merged in 1994 have 'left the Nation' and have formed the Stó:lō Tribal Society in a bid to control delivery of their own programs and services (Chilliwack Progress, July 27, 2004). These eight bands are the same bands that formed the Stó:lō Tribal Council, one of the intact groups merging with Stó:lō Nation Canada in 1994 to form Stó:lō Nation Society. The eight bands comprise nearly sixty percent of the total Stó:lō population. Initially the two top positions will be filled by Grand Chief Clarence Pennier (from Scowlitz) and Tyrone McNeil (from Seabird Island) who were elected Yewal siyam and Stó:lō Siyam respectively in the December 2003 Nation-wide election. Scowlitz and Seabird Island being two of the eight departing bands. The Cheam Indian Band and the Skway First Nation are not participating in the treaty process.
In this sense, bands and tribes are creations of contact with non-Natives. The largest of the tribes in the region is the Stó:lō Nation. (1999:59)

In his discussion of Coast Salish tradition and law, Bruce Miller provides a detailed and comprehensive overview of the Nation as part of its function as a tribe (2001). As notes Bruce Miller, the Stó:lō Nation operates under a constitution and is organized into a political arm and a bureaucratic arm. The Stó:lō political arm is composed of the Lálém Ye Stó:lō Si:yám or House of Respected Leaders, the Lálém Ye S’í:yelyó:lexwa or House of Leaders and the House of Justice. The House of Respected Elders is the main political body with its membership based on modified proportional representation; each band holding at least one representative, some as many as three. The representatives (chiefs) elect from among their group a five-person cabinet called the Special Chiefs’ Council (SCC) which consists of one representative for each bureaucratic department (or Portfolio) of the nation. The Chief’s Representative, or Stó:lō Yewal Siyam, is the primary spokesperson for the nation and is effectively the head of state. The Yewal Siyam chairs the SCC and is directly accountable to the Stó:lō Special Chiefs. Fisheries issues fall under the purview of the Fisheries Portfolio and the direction of the Portfolio holder. However, it is erroneous to assume the Fisheries Portfolio holder has any vested power or control over the Stó:lō fishery. As described to me by Bob Hall, the Fisheries Portfolio holder in 2002 when I conducted my fieldwork, the job is one of facilitator.

The House of Elders is composed of elders from every member band and is designed to function in the manner of the Canadian Senate. Elders are selected for their knowledge of Stó:lō traditions and customs, so that, as Bruce Miller notes “Stó:lō ways of knowing and understanding are well represented by the actions of the Stó:lō
government" (McMullen 1998 in Miller 2001). The Stó:lō constitution stipulates that the House of Elders must approve new laws.

The Stó:lō Nation House of Justice comprises representatives from the House of Respected Leaders and the House of Elders and began functioning in 2000 with the implementation of Qwi:qwelstóm, the conflict resolution program offering alternatives to the mainstream criminal and family court systems. It is through Qwi:qwelstóm and the House of Justice that resolution is to be sought as part of the Justice Protocol signed by Seabird Island.  

While the Stó:lō Nation represents the various Stó:lō bands in treaty negotiations and administers many of the government service programs designed to assist First Nations peoples, governing powers rest within the individual Indian bands formed under the auspicious of the Indian Act. Individual bands elect a chief and council (Section 74 of the Indian Act sets out elections procedures) who preside over band governance as well as representing band membership within the larger collective of the Stó:lō Nation. Bands hold formal recognition from the federal and provincial governments and are the entities that have title to any assets held in common by First Nations (Kew and Miller 1999:59). A case in point is the limited power of the Stó:lō Nation Fisheries Portfolio as regulating Stó:lō fishers. The Stó:lō Nation Fisheries Portfolio provides the vehicle for collective negotiation with the federal government for fishing opportunities however, individual bands determine participation in the

15 I recently spoke with Clem Seymour at Seabird Island about the effects of the break up of Stó:lō Nation on the justice program within the Nation charged with handling those cases diverted from the courts. According to Clem Seymour, cases would still be referred to Qwi:qwelstóm. What remains unclear, however is the effect of the break up on the other areas of the structure described in this section.
opportunities. Governance of the fisheries remains in the hands of the federal government.

The People of the River: Antiquity and Ethnography

This complex relationship between the river, its salmon resource and the Stó:lō people has been observed and described by ethnographers, archaeologists and historians. Ethnographic and historic accounts describe the large numbers of Indians traveling to the canyon each year following seasonal salmon runs (Crosby 1907; Duff 1952; Fort Langley Journal 1827; Lamb 1966). The importance of Fraser River salmon as a primary food source is borne out in studies revealing high concentrations of Pacific salmon protein in the diet of Coast Salish Indians (Chisholm 1983; Hewes 1947; Kew 1976). This importance is reflected linguistically with as many as one hundred and forty seven words in the Halq;emeylem language covering methods of catching and processing fish having been identified (Galloway 1993:587). Myths, legends and ceremonies illustrate the role of salmon in Stó:lō cosmology (e.g. Amoss 1987; Boas 1891, 1895; Codere 1948; Duff 1950, 1952; Hill-Tout 1902, 1904; Lerman 1976; Teit 1917). Salmon as a commodity of exchange in affinal relationships and formal trade arrangements is illustrated in the ethnographic and historic accounts and supported to some extent by the archaeology of the area (e.g. Carlson, Roy 1994; Duff 1952; Crosby 1907; Hudson 1993; Fort Langley Journal 1827; Kew and Griggs 1991; Lamb 1966; McMullian 1988; Meggs 1991; Smith 1950; Suttles 1987, 1960; Teit 1900; Ware 1977, 1983).

Regarding the antiquity of the area, Borden writes that the prehistory of the Americas is the history of the Indian peoples prior to the advent of Europeans (1968:9).
Noting further:

...the first whites to visit the Stalo...were the Spaniards, probably companions of Juan de Fuca, who explored this part of the coast in 1592 (Swanton 1953:600 in Borden 1968). Two centuries later, 1792, Captain George Vancouver charted the shore of Burrard Inlet. But the first white men... to come into intimate contact with the Indian people along their route were Simon Fraser and his crew...the year was 1808. (Borden 1968:9)

Beginning with the archaeological explorations of Hill-Tout and Lazenby in 1894 and continuing since the 1950s with the work of Borden, Duff, Kidd and others, the extent, time depth, complexity and intensity of Indian land use and occupation of the Upper Stó:lō area has been documented (Borden 1968, 1970, 1975; Mitchell 1963, 1965, 1971; Irvine 1973). In the upper Fraser Valley, Native occupancy as long ago as 9,000 to 10,000 years is established by the archaeological record (Borden 1975). The ancient beginnings of people in British Columbia is further noted in Mohs' summary of sites in the vicinity of Yale (1990). This includes evidence of one of the oldest habitation structures ever found in British Columbia dated between 4,000 to 5,000 years old and the structural remains of another feature found in conjunction with salmon vertebrae dated to about 62 hundred years ago (Eldridge 1981 and LeClair 1976).

Additional evidence of antiquity is found in Stó:lō legends and folklore. Stories of ancient occupation have been noted by several ethnographers and anthropologists. Stó:lō belief in their ancient ancestry is consistently noted (Boas 1895; Duff 1950, Hill-Tout 1902, 1904; Jenness 1934/35; Lerman 1976; Smith 1947; Wells 1987). Early accounts were first observed around the turn of the century (Boas 1895; Hill-Tout 1904). Boas described the creation of the first ancestors at the sites of the old tribal villages as told to him by Chief George Chehalis (Mohs 1990). In this account, the
Stó:lō deity Xá:ls is said to have created and/or transformed Stó:lō tribal ancestors at South Yale, Chehalis, Harrison Lake, Matsqui, Lakahahmen, Chilliwack, Agassiz, Scowlitz, Popkum, Ohamil and Yale (described in detail in Mohs 1990). Other early accounts recall ancestors of the Scowlitz as descending from the sky or transformed from fish in the river. For example, Hill-Tout recounts the story:

The old time Scowlitz were divided into three septs, each of which was believed to have had a different and distinct origin. Two of these were tel sweyil 'sky born'; the third was descended from the Sturgeon of the old days...the only old man now left among them, claims to be descended from the first Scowlitz man, who was called Sumqeameltq. He came down from the sky, bringing with him in his arms two animal-like beings called Skaiaq and Cwometsel, Mink and Otter. (Maud 1978:148)

A similar story is found regarding the Chehalis who were transformed from the fish in the river (Maud 1982:151).

Other evidence of antiquity is found in the stories relating occupation prior to geographic and geological events such as the 'Flood Story' (e.g. Duff 1950; Jenness 1934/5; Hill-Tout 1902; Lerman 1976; Wells 1987). Stories describe occupation at a time before rivers were free flowing and 'there was salmon in the Fraser River.' These stories coincide to some extent with documented geological activities of ancient chronology. Archaeological accounts indicate the Fraser became a free-flowing river, between 10,000 and 12,000 years ago and salmon have been ascending the river system for the past 7,000 to 9,000 years ago (Borden 1968; Carlson 1983; Fladmark 1975).

Very early ethnographic sketches of Coast Salish peoples, of which the Stó:lō belong, include the works of Boas (1889, 1890, 1891, 1894, 1895a, 1895b, 1895c) and Hill-Tout(1902). In the early 1950s, Wayne Suttles and Wilson Duff closely examined
Coast Salish life-ways with Suttles focusing on the Lummi of western Washington state and Duff on the upper Stó:lō. Duff’s ethnography, *The Upper Stalo Indians*, published in 1952 provides detailed information regarding upper Stó:lō history, village, place names, archaeological sites, material culture, fishing, hunting, social order, family times, kinship terminology, marriage customs; nearly every aspect of Stó:lō life. Notes Duff, the Stó:lō were divided into a considerable number of local groups or ‘tribes,’ each of which claimed a stretch of river-bank or an important tributary (1952:19).

According to Duff, the socio-political units into which the Upper Stalo were divided included the extended family, the village, and the ‘tribe.’ Extended family relationships were important, carrying with them access rights to resources and responsibilities towards those resources. Villages varied in size, made up of one to several extended families. Stó:lō tribes consisted of groups of villages which had come to be thought of as units to the extent that they were given names (Duff 1952:86). Strength of tribal identity varied among the groups in the territory with some of the tribes having a clearly defined tribal identity. However, most of the evidence suggests that the concept of a tribal unit was neither clearly defined nor important in the Native mind, rather, Stalo tribes were named clusters of villages grouped by outsiders for descriptive purposes (Duff 1952:87).

The concept of band identity was reinforced with the creation of reserves. The notion that band identity is a product of the creation of reserves and the implementation of the Indian Act seems to be held by many of the Stó:lō with whom I spoke. As one individual with whom I spoke explained:

> It’s hard to use the concept of "my band" because this was all our living room here, from one end of the river to the other because we're
back and forth hunting and fishing, traveled different places. There’s no "mine" it’s all "ours"......The designation of bands was a European concept. (Stó:lō fisher from Shxw'ow'hamel)

Others explained to me that identification was with family first above band. This notion figures into the discussion in chapter 6 regarding wealth accumulation as a product of the Pilot Sale Arrangement. Evident in that discussion is the responsibility of, and to family members as regards the fishery. Fishers with whom I spoke, talked of the responsibility to family first over band, mentioning that family membership transected band membership. This emphasis on family is clearly visible in the chapter 6 case study regarding the highliners and moneymakers as well as in regards to the case studies in chapters 4 and 5. In chapter four’s case study regarding the Cheam, the notion of a collective band identity is advanced as a particular “means to an end”: warriors in a battle for the right to fish. The family constitutes one corporate/economic unit, another being the simple employer/employee relationship established outside the family. In all regards, a sense of community responsibility, aside from the simple public persona, strongly exists. As regards the Seabird Island case study in chapter 5, individual families constitute the core corporate/economic unit. The particular history regarding the formation of the Seabird Island reserve serves to provide an additional dimension to the family/band dichotomy as the initial Seabird community included individuals relocated from surrounding Stó:lō and Nlaka'pamux communities. As with any Stó:lō community, family ties stretch across band and community lines.

The importance of family and family ties essential to my discussion of the Stó:lō is discussed by Suttles in his examination of Coast Salish life published contemporarily with Duff's work. Similarly to Duff, Suttles describes Coast Salish organization as
consisting of four levels of discrete units: families, each occupying its own section of a cedar-plank house and maintaining its own domestic economy; house groups, each composed of several families (related either through males or females) occupying a plank-house and co-operating as hosts of feasts and other ceremonies; villages, each composed of a group of such houses occupying a short stretch of beach or river and sharing a common name and identification with territory; tribes, generally composed of several villages occupying a longer stretch of shoreline or a drainage area and sharing a common name and, and to some extent, forms of speech, subsistence methods, and ceremonial procedures (1963:513). Suttles identifies a specific form of social organization or property holding kin-group. It was this group or its head, rather than any of the residential groups, that owned the most important ceremonial rights and the most productive natural resources: fishing sites (1963:513).

Both Duff and Suttles discuss the concept of social rank among the Coast Salish. According to Duff, social rank among the Upper Stalo is measured in terms of respect. Duff notes that individuals and families differed in social rank because they differed in the degree to which they possessed the qualities which were admired and respected (1952:80). Edmund Lorenzetto (E.L.) recalled to Duff how these qualities determined the designation of Siya:m:

A siya:m was a good man who talked to his people to keep them straight and to settle rows. He didn’t really boss the people around....but all the people would take his advice. He talked to the people, telling them what they should do, when they should go hunting or fishing, and the did it. He had to be a good hunter and fisherman himself to be a leader. There might be more than one siya:m at a place....(1952:80)

Siya:m were usually of upper-class lineage, having had access to special training due to their high-class status. They assumed roles of leadership in the community as pre-
contact Stó:lō society had no ‘chiefs.’ A chief was the one appointed by the Indian Superintendent to conduct the affairs of a reserve (Duff 1952:81). As well, in his discussion of social rank in Coast Salish society, Suttles comments on the existence of a classed society.

According to Suttles, within most communities there seem to have been three distinct social classes - a majority identified as “high class,” a somewhat smaller group identified as “low class,” and a still smaller class often occupying its own section of the community (1987:17, originally published in a paper delivered in 1959). As notes Suttles, this lower class consisted of people who “had lost their history” and hence people who had no claim to the most productive resources of the areas, such as fishing sites. This was reiterated by Sonny McHalsie in an interview with Bruce Miller in 1995 and to me in my conversations with Stó:lō fishers. In my conversations with Ken Malloway, Suttles’ and Duff’s description of the existence of three distinct classes was mentioned in regards to the fishery. Ken Malloway noted to me on more than one occasion that the fact that some contemporary Stó:lō fishers had gained some measure of wealth from the salmon fishery was simply a reflection of a past class system that existed prior to white settlement.

In his discussion of resource ownership, Duff notes that exclusive tribal or village ownership of resource areas was practically unknown to the Upper Stó:lō except for the case of salmon dip-net stations. These stations were located predominately in the lower canyon above Yale and were actually rocky points in the canyon wall the along the water's edge. Natural or man-made, these fishing platforms were named and family owned. Duff writes that:
The usual pattern was for the 'owner' and his sons and younger brothers to use the station together. Under his leadership they built, rebuilt or kept in repair the drying-rack that went with the station, and each was allotted a number of poles on the rack from which to hand his fish to dry. The dip-net was usually made and owned by the owner of the station, who left it at the water's edge for the others to use. (1952:77)

Though dip-net stations were 'owned,' use was extended to anyone who could claim the right through kinship as designated by 'names.' For the most part, the stations in the lower canyon were owned by families in the nearby villages, however, kinship webs could bring fishers claiming rights to the station from as far away as Musqueam and Vancouver Island. These 'kinship webs' were formed through intervillage marriage alliances, thereby expanding hereditary access the canyon fishing sites. Drawing on Suttles' work, Carlson and Eustace describe how access to resource sites were procured through marriage when speaking specifically of the Stó:lō:

Among the most highly valued inherited privileges, and one that undoubtedly motivated many marriages among upper class families, were rights of access to special resource gathering places such as lower Fraser canyon fishing sites... After the initial exchange of material wealth (blankets, canoes, jewelry, slaves) came the exchange of hereditary privileges. Either the bride or groom, or both, were called out individually by their new parents-in-law and told of their new privileges...

Names served as a means of tracing access rights. At a wedding, for example, the name the bride or groom inherited for their children, through their in-laws, would formerly have belonged to a deceased relative recognized as having hereditary rights to a lower canyon fishing spot. A 'speaker' hired on behalf of the family would explain which rights accompanied the name. The more genealogical detail the speaker provided, the greater the legitimacy of the privileges associated with the name. In this way, the new namesake acquired the rights associated with the name. Such names did not necessarily imply site ownership, but they did secure rights of preferred access. These rights were extended to all children and extended relatives resulting from the marriage union...for as long as the marriage endured. (Carlson and Eustace, draft 1997: 9-10)
Knowing one's ancestors was vital to demonstrating one's claim to family owned fishing sites. Knowing one's ancestry meant knowing those sites to which one's names were attached. Sonny McHalsie describes the system of access through names as explained by Carlson and Eustace:

Family names, individual names and different names had a ranking to either upper class, middle class and lower class. Those names were attached to the land. When you got a name you had to earn that name. Then attached to that name would be a resource because from that name everyone would know from the name that you carried where you could fish for instance, where you could pick berries...(1995:6-7)

However, access through names did not mean exclusive use as other members of the extended family had names that were attached to the ground as well. Again, Sonny McHalsie notes:

....it's not like just there's only a few names like you can't go to one fishing spot and say, "Well for this fishing spot the person that carries this one name is the only person that can fish here." (1995:7)

Excerpts from Duff's field notebooks describe the ownership of canyon fishing rocks and fishing grounds. "Rocks were owned by people from all over the place. Every fishing rock had a name; every fishing ground had a name" (Book 5).

In his analysis of Stó:lō collective identity, Carlson (2003) discusses the role of the extended family in economic relations traces settlement patterns, drawing on Suttles' work regarding regional networks that linked settlements as a means of procuring foods and dealing with times of resource scarcity. Carlson notes Suttles' identification of the family as the core corporate/economic unit. Carlson writes that

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16Notebooks 2-6 were used in this section regarding fishing sites and fishing techniques. These notebooks reflect conversations with Patrick Charlie and Robert Joe (Books 2 & 3), Patrick Charlie, August Jack, Mr. and Mrs. Edmund Lorenzetto, Harry Joseph (Book 4) and Mr. and Mrs. Edmund Lorenzetto (Books 5 & 6).
“according to Suttles, neither the village nor the tribe have necessarily ever been the most important collective units” (2003:56). Rather it was the family/kin group, or its head that owned the most important ceremonial rights and the most productive natural resources (Carlson 2003:56 from Suttles 1987:210). Suttles’ description of Coast Salish resource ownership and family control of resources supports Duff’s observations of resource ownership and control among the Stó:lō. Suttles’ and Duff’s analysis of Stó:lō resource economics form the basis of the argument advanced by some Stó:lō fishers and countered by others in response to fisheries regulation as found in the discussions that follow.

In the chapters immediately following, I focus on the early years of fisheries regulations and the historical circumstances contributing to regulation as well as the roles of the courts regarding the Aboriginal right to fish. As I continue in my discussion of the fisheries I describe the changes that resulted from the implementation of a new Aboriginal fisheries strategy in 1992 and how that “strategy” has contributed to something just short of a breakdown in the systems that regulated the fishery as described by Suttles and Duff. How, as one Cheam band member noted to me, the DFO came to be Siya:m.
Chapter Two: History, Regulation and Resistance

“We start when we are kids. We learn how to fish because that’s where our parents and grandparents lived, in the camps, in the houses up there in the canyon and even down here. We made our own home, had our own fishing sites, family owned. In the summer the whole family would go to Yale to dry and can and salt salmon. Learning how to fish is like going to school. You go there, first you learn to start packing nets around, then after you’re old enough you start setting ‘em, after a while you start checking ‘em and packing the fish out. The pretty soon you’re doing it on your own.” (Stó:lō fisher from Shxw’o’om’el)

In his overview of the industrialization of the Pacific Coast salmon fishery and what he calls the “legal capture” of the salmon in British Columbia, Douglas Harris draws on the work of Edward Said to explain how that legal capture was made possible. Notes Harris:

In territories claimed for the British Crown, particularly those that became settler colonies, establishing English law was essential to the colonial project. Where necessary, European colonial powers used other, blunter instruments of force, including gunboats and infantry, to secure control......but it was not only violence that secured the European position. Less obviously sources of power, the numerous cultural assumptions about family, dress, language, work, and the apparently mundane details of ordinary life reproduced particular hierarchical relations between colonial rulers and subjects. Edward Said, in his immensely influential study Orientalism, managed to portray the ‘formidable structure of cultural domination’ that enveloped the West’s relationship with the Middle East. It was this cultural domination - the ability to name, to label, to categorize an other - that permeated the relationship.... Culture was not, in Said’s study, ‘merely decorative or “superstructural,”’ but a source of great and under-examined power in the West’s relationship with the East. (2001:187-8)

Said could have very easily been writing about the relationship between the British Crown and the First Peoples of British Columbia, a comparison so aptly made by Harris. While Aboriginal peoples have used this created Indian other as a means of ‘holding on’ in the face of the numerous changes to their way of life, it was by way of this Indian other that first Colonial governors and eventually Dominion lawmakers were
able to "legally capture" the salmon resource of British Columbia and subsequently regulate Indian fishers to the economic margins. This is evident in the opening paragraphs of a Gerald Howard's 1944 report prepared for the International Pacific Salmon Fisheries Commission in New Westminster, BC. Writes Howard:

One portion of the total run consists of the valuable commercial fishery and also the relatively less important Indian fishery. In each year the number of fish taken by the Indians is actually much smaller than either the number caught by the commercial fishery or the number escaping to the spawning grounds. However, as it becomes necessary to give the small and nearly extinct race the protection required for their rehabilitation, representative statistics for the Indian fishery must be available if regulation of the commercial fishery is to be carried out intelligently. (1944:65)

Undoubtedly, Stó:lô society was significantly changed by the coming of whites to the region. In addition to the fact that white diseases had reduced village populations long before the first white explorers, trappers, miners, fishers or missionaries visited the Fraser Valley, impacts on the natural resources of the region - in particular the salmon - proved devastating. By this time, disease had already significantly reduced Native populations. Mining activities, settlements, railway construction and the introduction of commercial canneries on the Fraser severely infringed on the Aboriginal fishery. In this section I discuss the changes experienced by the Stó:lô people as a result of the influx of whites into the region. I focus primarily on the growth of cannery operations in British Columbia that resulted in various regulatory actions directed at Stó:lô fishers.

**Historical Preview**

Most B.C. Indian societies, including the Stó:lô, never signed treaties with the federal government and in essence never relinquished their claim over the land and resources. Control and management of the land, rivers, and their resources remain, for all these First Nations peoples, the responsibility of Indian leaders and people. Notes
Newell:

For thousands of years before Europeans arrived, Indian economies on the Pacific slope centred on marine resources; the sea and coastal rivers were at least as important as the land. There were regular, prolific salmon migrations into fresh-water areas of very Aboriginal society. Aboriginal peoples harvested prodigious quantities of local resources, especially salmon, which they processed and used for personal consumption, trade, and ceremony. Such well-managed enterprises allowed them to support a pre-epidemic population numbering in the hundreds of thousands without destroying the fishery resource. (1993:3)

The Stó:lō had extremely effective fisheries strategies in operation when, in 1793, Alexander MacKenzie made his way to the coast in the first overland expedition. These strategies were noted more than fifteen years later, in 1808, by Simon Fraser, after establishing posts at McLeod Lake, Fraser Lake and the south end of Stuart Lake, made his journey down the river later named for him.

By 1827 the Hudson's Bay Company post at Fort Langley on the Fraser River was established relying heavily on the fishing expertise of the nearby Indians (Fort Langley Journal 1827/30; Morton 1989). These posts, and others in the region, were the major centers of the fur trade in the area named New Caledonia as well as major centers of trade for the Indians of the region. The fur trade clearly brought change to the Indians of the region, yet it was change that the Indians directed and therefore their culture remained intact (Fisher 1992:47). Through inter-marriage between Stó:lō women and the HBC employees posted at the Fort in Langley, the Stó:lō were able to control many aspects of the Fort's economy (Carlson 1997, Fisher 1992).

Beginning around 1829, Stó:lō fishers became the backbone of a major cured fish industry at Fort Langley. Recognizing the expertise of the Indian fishers, HBC employees relied on the Stó:lō to provide the vast quantities of salmon necessary to
maintain the new industry. Salmon, procured from Stó:lō fishers, was processed for export (Carlson 1997, Fisher 1992, Fort Langley Journal 1827/30). Three permanent HBC salting stations were established on the Fraser River whereby Indian fishers would “sell” fresh salmon to be processed for shipment to the Sandwich Islands (FLJ 1827/30, Morton 1989).

By the late 1850s the discovery of gold along the Fraser River brought an ever greater number of white miners and settlers into the area along with a change in the Indian/white relationship in the Fraser Valley. The discovery of gold along the Fraser River in 1858 not only saw an end to the fur trade industry but also an end to the cooperative relationship between the newly arrived white population and the Indian peoples of the region. From the beginning there was violence between the miners and the Indians. The influx of miners into the region adversely affected the Stó:lō fishery. Indians and miners vied for the use of the waterway, the Indians for their traditional fishery and the miners for their alluvial gold mining as literally dozens of creeks were diverted into scores of man made ditches for transporting water (Carlson and Eustace 1997). Further affected were traditional Stó:lō fishing sites. Carlson and Eustace note the existence of two placer mining companies directly on fishing sites as shown on the Indian Superintendent Vowell’s 1906 map of Yale fishing sites. Both Vanzandt Hydraulic Mining and Yale Placer Hydraulic Mining had twenty year leases to mine at fishing sites which had been recognized and reserved by the federal government (Carlson and Eustace 1997).

Duff notes that the richest gold-bearing bars on the Fraser were found between Hope and Yale (1952:41). Indians panned gold themselves or worked for the miners
for $2 to $4 a day abandoning their winter canyon villages. Fisher notes:

Many Indians were caught by the mania for gold, and some probably neglected their traditional summer food-gathering, either to mine or to provide ancillary services for the white miners....many Indians were able to support themselves and their families by becoming wage earners. Others, however, obviously miscalculated their winter needs. The pressure of starvation forced some Indians to steal from Europeans. Also, Indians of the canyon, attracted by the possibility of trade and work, abandoned their winter villages and began to congregate around the mining towns. (1994:101)

With the exodus of miners from the region came the arrival of white settlers. It was at this time that James Douglas began an Indian policy on the mainland that included the creation of Indian reserves. Douglas recognized the Indian patterns of land and resource use and attempted to provide some semblance of protection regarding access to traditional fishing sites. While no treaties were signed, tracts of land throughout Stó:lō territory were set aside as Indian reserves. However, Douglas' policy would be greatly altered in years following Douglas' retirement in 1864 when Joseph Trutch began to reduce or eliminate the elements of Douglas' Indian policy that were beneficial to Indians (Tennant 1992:39). Indian reserves continued to be created when British Columbia joined Canada in 1871 and crucial decisions over the size and number of reserves in the coastal and inland river areas continued into the early twentieth century (Newell 1993:55).

Contributing to the specific affects of settlement on Aboriginal peoples was the fact that Indians in British Columbia had agreed to the small reserves allocated them on the understanding that their rights to the fishery were guaranteed (Lane and Lane 1978, as quoted in Pinkerton 1987:251 and Notzke 1994:45). Acreage and location of reserve lands were determined by joint Indian Reserve Commissions operating from 1876 to 1877, 1879 to 1880, 1880 to 1898 and by the joint Royal Commission operating
from 1913 to 1916 (Notzke 1994:45). Federal officials were convinced that Indians in British Columbia did not require large reserves such as those set aside in other provinces, as long as Native fishing practices remain protected. For the Stó:lō Indians this protection of fishing rights was of paramount importance as they had already faced significant reductions in reserve land holdings in 1868 when under Joseph Trutch’s direction all central Fraser Valley Stó:lō reserves were officially resurveyed resulting in a significant reduction in the land base. This reduction amounted to ninety-one percent of the Stó:lō reserve land base being alienated from their control (Carlson 1997).

The Growth of British Columbia Canneries and the Industrialization of a Fishery

When British Columbia joined Canada in 1871 changes in the Aboriginal fishery were imminent as the first salmon-canning factory appeared that same year. Initially there was no government regulation of any kind over Indian fishing (Newell 1993:46). Ware refers to this period between 1858 and 1880 as a time of non-regulation and protection of Aboriginal rights with no restrictions (1983:12). According to Newell regulations were minimal so as to allow growth of the salmon-canning industry (1993:46). The role of Indians in the growth of the salmon-canning industry was acknowledged by the government and regulations indicated in particular that Indians had the right to carry on their traditional fisheries (Newell 1993:46). In addition, as participants in cannery operations Indian men and women operated the gill net fleets,

17 In addition, Carlson and Eustace, The Lower Fraser Canyon Aboriginal Fishery: An Historical Analysis of Access and Control, (report prepared for Stó:lō Nation 1997) describe the creation of canyon fishing reserves.

18 Keith Carlson, in chapter 4 of You Are Asked to Witness, provides a table reflecting the size of Stó:lō reserves in 1864, the amount of land included in Trutch’s 1868 reductions and the current reserve acreage in 1996 (1997:74).
and Indian women and children did most of the handling of raw fish (Newell 1993:47).

The year 1870 saw the first commercial canning of salmon in British Columbia (Lyons 1969:142). Continuous canning did not begin on the Fraser until 1871, when Alexander Ewen launched his operation and went into production (Meggs 1991:20). As Meggs describes:

In the first year, Ewen and his partners produced 300 cases for export to the United Kingdom. Each case held 100 one-pound cans. After 1871, only 48 one-pound cans were placed in a case and a 48-pound case became the industry standard. (1991:20)

Additional canneries were opened such as the one by T.E. Ladner who established his first cannery on the south bank of the Fraser near its mouth. In the ten years following Ewen's first pack, new canneries were established almost every year. Again Meggs describes:

At the end of the decade, the province boasted eleven canneries, including ten on the Fraser. The pack on the Fraser rose from a few hundred cases in 1870 to 42,155 in 1880 and 142,516 a year later. (1991:22)

By 1919 there were 97 canneries on the coast from the Fraser River to the Nass River, on Vancouver Island and in the Queen Charlottes, employing more than 9,000 people, the majority of whom were Indians and more that one-third of all salmon fishermen were Indians (Pearse 1982:151).

Initially, Native fishers dominated the cannery labor force as the majority of early gillnetters were Native people, hired on a daily basis to fish cannery boats (Meggs 1991:22). Meggs notes, thousands of Native people were drawn into cannery labor, as work was available for the whole family (1991:22). Ernie Crey told me how his older sister, Mary, had worked in the canneries. Archived, oral histories make mention of
Stó:lō people traveling down river to the canneries to work. After the turn of the century, Indian fishers had to struggle to maintain their position as Japanese fishers became more active participants in the cannery fishery, especially on the Fraser River and Vancouver Island (Newell 1993, Souther 1993). Additionally, according to Newell:

By 1913 Indian fishers were a minority in the Fraser district: of the 2,359 licenses issued, 1,088 went to Japanese, 832 to whites, and only 430 to Indians. (1993:85)

Not only were Indian fishers replaced by Japanese fishers, on the Fraser River Japanese women were replacing Indian women on the canning line (Newell 1993:85).

An Era of Regulation Emerges

When examining the implementation of fisheries regulations it is important to consider how regulation altered traditional economic patterns and hindered the development of new ones. As described by Newell, the salmon canning industry represented a new economic opportunity compatible with traditional economic activities (1993:65). However, by the late 1880s Indians were seen as a major obstacle to cannery profits and fisheries officials were pressed by cannery owners to introduce new regulations to license the industrial fishery. Direct competition for fish between commercial canners and Indian domestic fisheries was evident by the turn of the century (Notzke 1994:45). Table 1 lists some of the early regulations directly affecting the spiritual, social, and economic relationship between the Stó:lō people and the Fraser River salmon resource.

Regulation designed to reduce the competition between Native fishers and cannery owners required Indians to acquire licences to fish commercially (only in tidal waters) but allowed them the freedom to catch salmon to feed themselves. This policy
Table 1. Chronology of Fishery Regulation for the Province of British Columbia

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<tr>
<th>Year</th>
<th>Event</th>
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<tr>
<td>1876</td>
<td>The Fisheries Act was made applicable to B.C. Allowed the federal Minister to licence or lease water to 'certain Indians' permitting them to fish for their own use. Fishing manner and timing could be specified and spearing could be permitted.</td>
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<td>1878</td>
<td>The first Salmon Regulations for the Province of British Columbia were adopted by Order-in-Council. No reference was made to Indians. The Regulations restricted drift netting of salmon in tidal waters, limited the obstruction of rivers by nets and banned salmon fishing during specified weekend hours. A letter from the Minister of Alexander Anderson, the first B.C. Fishery Inspector, gave him authority to suspend the regulation for Indians.</td>
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<tr>
<td>1879</td>
<td>A general Fishery Regulation for Canada was adopted which prohibited salmon fishing without a lease or licence from the Department of Marine and Fisheries.</td>
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<tr>
<td>1888</td>
<td>New Regulation contained more comprehensive controls over salmon and trout fishing, including prescribed open and closed periods and methods of net fishing. The prohibition remained against net fishing without lease or licence, net fishing in fresh water and obstruction of more than one third of any river. Penalties were now provided for violation. The Indian food fishery was exempt from these Regulations and Indians were to 'at all times have liberty to fish for the purpose of providing food for themselves, but not for sale, barter or traffic by any means other than with drift nets or spearing.'</td>
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<tr>
<td>1894</td>
<td>New Regulation prescribed more detailed limits on net size, the use of seine nets and the fishing season. Introduced the distinction between 'commercial' and 'domestic' licences; Indians were prohibited said that 'Indians and take food fish without permit in any place from taking fish by spear, trap or pen on spawning grounds or fish any place reserved for fish propagation and were now subject to the close season. Indians could, with permission, use dip nets for food fishing.</td>
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<td>1908</td>
<td>All net fishing without licence was prohibited and no net fishing could take place in fresh water. The clause in the 1894 Regulation which allowed Indian food fishing with permission was regulation of fish packing; and a catch reporting requirement. deleted. The only reference to Indians was a clause which required them to report the place, time, quantity and type of fish to the nearest fishery officer.</td>
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<td>1910</td>
<td>The 1908 Regulations were replaced by the Special Fishery Regulations for the Province of British Columbia, which reintroduced the 1894 controls on the Indian fishery that had been rescinded in 1908 (requirements for permission for food fishery, etc.) One key change - Indians were not required to respect the closed season.</td>
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<th>Year</th>
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<td>1917</td>
<td>More restrictive in an effort to stop the sale of salmon caught under food fish permits. Established principles which are central to the regulation of the Indian food fishery from 1917 until 1977. Empowered inspectors to specify in the food fish permit the location, methods and timing of the fishery.</td>
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<td>1925</td>
<td>An amendment to the Regulations added that anyone who bought a fish that was caught without permit in an area for which permits were not granted was guilty of an offense.</td>
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<td>1967</td>
<td>The amendment said that the provision for Indian food fishing under permit applied even where there was a ban on fishing for salmon with commercial gear in the mouth of the Fraser during winter (Dec. 1 - March 31). The 'permit' of earlier regulation became a 'special licence.' Licensee required to carry the food fish licence while fishing in case of inspections. All salmon and steelhead taken under licence were to be marked by the licensee after capture by cutting off the end of the nose and dorsal fin. Gill nets and sets were to clearly display the licence number. It was specified that no person should buy or accept fish unless it was lawfully caught under a commercial licence.</td>
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<tr>
<td>1981</td>
<td>Complete revisions were made to the food fishing sections - key features: a food fishing licence could be issued to an Indian or Indian Band; the licence could specify the location, timing, species, quantities, gear and marking methods; the requirements for carrying the licence, marking the fish, identifying nets remained and the prohibition against selling or buying fish caught under food licence was strengthened.</td>
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<td>1984</td>
<td>Another complete re-drafting of the food fishing provisions - 'Indian food fish licence' was defined as 'a licence issued by the Minister to an Indian or a band for the sole purpose of obtaining food for that Indian and his family or the band.' The person fishing was required to produce on demand his licence, a copy of the band licence or band authorization. All nets were to be marked as specified and no one other than an Indian could 'have in his possession fish caught under the food fish licence.</td>
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created a separate food fishery among the Aboriginal peoples where none had existed in the past (Ware 1983). As Newell describes:

The Indian food-fishing regulation equated Indian fisheries strictly with subsistence harvesting: 'Indians shall, at all times, Have liberty to fish for
the purpose of providing food for themselves but not for sale, barter or traffic, by any means other than with drift nets [floating net that drifts freely with the tide or current], or spearing.' This provision in theory capped production in the Aboriginal fisheries in order to reserve supplies for the fishing industry. (1993:62)

It was under this regulation that ‘the economic use of salmon by Stó:lô and other Aboriginal peoples was outlawed’ (Glavin 1993). Again Newell explains:

The Indian food-fishery regulation raised two separate but profound issues....First, it separated Indian harvesting and personal consumption of fish from economic, social or cultural purposes... the distinction between fishing for food and fishing for any other purpose was foreign to Indian cultural and practice. Second, it separated production of resources from management of them, officially transferring all management of this crucial food and commercial resource from Indians to the state [the state in this case being the federal fisheries agency]. (1993:62)

Subsequent regulation saw significant restrictions on Indian ‘food fishing.’

Offensives were launched against the use of weirs and fish dams, a permit system was established, attacks on Indian fisheries intensified, and attempts to abolish all nets and even attempts at a total prohibition of Fraser River Indian fishing were instituted (Ware 1983:12). As the needs of the canneries escalated, so did the restrictions on Indian fishing. Tables 2 and 3 summarize the direct effects of regulation on access to fisheries resources in the late 19th and early 20th centuries.

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<thead>
<tr>
<th>Year</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1880</td>
<td>Sale of “food fish” outlawed</td>
</tr>
<tr>
<td>1904</td>
<td>Fishing weirs banned on Skeena River</td>
</tr>
<tr>
<td>1917</td>
<td>Purchase of food fish banned</td>
</tr>
<tr>
<td>1919</td>
<td>Beach seines outlawed</td>
</tr>
</tbody>
</table>

Source: Souther, 1993

Phases 2 - 5 of Ware’s chronological framework corresponds directly with Souther’s list
of fisheries regulation. Table 3 outlines Ware’s chronology regarding fisheries regulations.

Table 3. Chronology of Governmental Regulation with Special Emphasis on the Fraser River

<table>
<thead>
<tr>
<th>Phase</th>
<th>Time Period</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 2</td>
<td>1858 - 1880s</td>
<td>Non-regulation of BC Indian fisheries. Protection of these Aboriginal rights with no restrictions.</td>
</tr>
<tr>
<td>Phase 3</td>
<td>Early 1880s-1892</td>
<td>First attempt to separate Indian participation in the commercial fisheries from “food fishing.” First regulatory clauses in Fisheries Act and BC Regulations. Early attempts to “administer” fishing laws against Indians.</td>
</tr>
<tr>
<td>Phase 4</td>
<td>1894 - 1914</td>
<td>Significant regulation and restrictions of Indian “food fishing.” Offensive launched on weirs and fish dams. “Permit system” established.</td>
</tr>
<tr>
<td>Phase 5</td>
<td>1914 - 1922</td>
<td>Intensified attack on Indian fisheries. Attempts to abolish all nets; then attempts at total prohibition of Fraser River Indian fishing.</td>
</tr>
</tbody>
</table>

Source: Ware 1983

Indian peoples lost control and management over the fisheries as new waves of regulation were continually introduced. For the Stó:lō, compliance with fisheries regulations meant fishing in prescribed places at prescribed times with prescribed technology. The Indian fishery had already been designated as strictly a ‘food fishery’ when a wave of regulation between 1894 and 1914 outlawed specific, important technologies such as trawling, drifting or bag-netting; important fishing technologies used below the canyon. Traps and weirs were also outlawed in this wave of regulation as was the practice of ‘torchlighting’ (fishing at night). Set gill nets became the only legal technique between the delta and the canyon areas as this technique made
monitoring by fisheries authorities more easy (Bierwert 1997; Newell 1993; Ware 1983). Regulations required that Indian nets had to be tagged making them clearly recognizable to fisheries authorities (Ware 1983). Ernie Crey sums up the circumstances faced by Stó:lō fishers:

> From 1888 onward, the great tribal fisheries of the Fraser River watershed were under attack. Fisheries officers were sent throughout the interior to tear down our fishing weirs, to dismantle our traps, and to keep us away from the river. (1993)

Early Struggles With Regulation

Arising from increased pressure from the nascent canning industry, new fishing regulations were implemented in 1888 that would greatly reshape Aboriginal fisheries and touch off conflict that persists to this day. Comprehensive controls over salmon and trout fishing, were put into place, including prescribed open and closed periods and methods of net fishing. The prohibition remained against net fishing without lease or licence, net fishing in fresh water and obstruction of more than one third of any river. Penalties were now provided for violation. The Indian food fishery was exempt from these Regulations and Indians were to ‘at all times have liberty to fish for the purpose of providing food for themselves, but not for sale, barter or traffic by any means other than with drift nets or spearing.’ Jos Dyck, in his discussion of early resistance movements on the part of Native peoples, notes that Stó:lō fishers responded almost immediately. In the summer of 1888, Stó:lō fishers united to express concern about the cannery-related fishing that was taking place near the river mouth. Stó:lō chiefs sent a petition to the Department of Indian Affairs stating that their people were in danger of not having enough salmon for the winter. According to Dyck, the Stó:lō claimed that few salmon were getting past the nets at the river mouth and the ones that did were
rope-marked and spent (1991:28)\textsuperscript{19}

The 20\textsuperscript{th} century saw a steady growth of confrontations and net seizures on the Fraser River. In particular the years 1913-1914 witnessed an escalation in federal attacks on Indian fishing rights as a series of ecological disasters devastated the 1913 and 1914 Fraser River salmon runs. If one single event can be seen as adding fuel to the fire of fisheries regulation, it is the Hell's Gate disaster. The 1913 rock slide at Hell's Gate in the Fraser Canyon proved to be an ecological disaster of immense proportion. Explosions by railway construction crews triggered a massive rock slide effectively blocking the 1913 return migration of Fraser River spring and sockeye salmon. Cannery operators, facing economic crisis at the impending loss of future sockeye runs, exerted increased pressure on fishing authorities to further limit the Indian fishery.

Federal officials responded by strictly enforcing previously unenforced clauses of the fisheries regulation banning nets in inland waters and by completely closing the early July Indian fishery between Hope and Lytton (Ware 1983). Over Indian protests, this level of restriction continued for the next few years culminating in the complete closure of the river to 'Indian fishing' for the 1919-1921 fishing seasons. Enforcement of the Fraser River closure was dropped when it was realized that it was unenforceable short of physical occupation of the villages (Ware 1983:33). Ware reports that all the tribes from Chilliwack up river resisted the prohibition. Dip netting at night was one method they used. According to Ware, J.P. Babcock reported:

\textsuperscript{19}Canada, Department of Indian Affairs, RG10, NAC- UBCIC. R. C-10140, F. 50341, V. 3802. Petition from the Chiefs assembled at Yale to Indian Agent McTierman, 13 August 1888.
...notwithstanding the Dominion’s order prohibiting the Indians from taking Salmon above.. Mission Bridge, a considerable number of Sockeye were taken by them in the canyon. (1983:33-4)

Prior to the protests over the total closure of the Fraser, Stó:lō fishers protested regulations that targeted traditional fishing technologies. Even after the use of drift or bag-nets (important Stó:lō fishing methods for fishing below Yale) were outlawed, Stó:lō fishers continued to rely on these traditional fishing techniques. During the 1883 fishing season, the local fish guardian seized a large number of nets in the Fraser River and Indians from Yale to Squamish ‘protested loudly and angrily’ against the seizures (Ware 1983:17). A.C. Anderson, Fishery Inspector, quickly issued an order to return the nets. This however, was not always the response on the part of the government and net seizures continue to the present. Cameron (1997) notes that in 1916 Aboriginal people in the province united in an organization called the Allied Tribes of B.C. to press Aboriginal claims for land and resources. However, in 1927, just before the tribes went to Ottawa to press their claims, the federal government inserted a provision in the Indian Act preventing Aboriginal people from obtaining legal assistance (1997:146).

Transcripts of the 1913-16 the Royal Commission testimonies and transcripts of oral histories reveal that many Stó:lō people continued to sell fish to make ends meet and to obtain sugar and other grocery items. Felix Joe of Seabird Island reported to Commissioner Shaw in 1914:

When asked if they ever sell - "Yes, when seasons for fishing are good, we catch fish and sell some for other food.

Chief Willie Glades of Popcum in 1914 reported to Commissioner McKenna:

"Occasionally go out fishing and sometimes sell some of the fish in order to
exchange it for groceries."

Assistant Chief Henry Edwards of Cheam reported to Commissioner McDowell in 1914:

"We depend quite a bit on the salmon, and we sell fish also."

Chief Charlie of Matsqui reported to Commissioner McKenna in 1915:

"Some Indians fish during the fishing season and some do not because have to buy a licence. Some fish for the canneries. Sometimes sell fish to whites to get sugar and tea."

Some reported to the Commission that at one time they fished for the canneries, some using cannery boats and outfits, but for the most part the money they made barely covered the expense [of the licence and the gasoline]. Chief Harry of Chilliwack reported to Commissioner Shaw in 1915:

"Some Indians go to the canneries to fish."

Sub Chief Johnnie Lewis of Kilgard reported to Commissioner McKenna in 1915:

"Indians used to go to the canneries to fish, don't now. Catch fish for their own use."

Fishing For Themselves

Struggles over fisheries regulations would continue throughout the 20th century and into the 21st. The Stó:lō faced restrictions on when and how they could fish. An examination of those restrictions and the responses to them by Stó:lō fishers reveals a picture of a hard fought battle for the right to fish. Turning again to Gerald Howard's words from his 1944 report:

The Indian fishery on the Fraser River is controlled by the Dominion Department of Fisheries. This department has the power to specify the locations for fishing, the gear to be used, the number of fish to be taken, and the time during which the fishery is pursued. The Indians are permitted to take the salmon only for their own consumption; they are not allowed to sell them. Hence this is not a commercial fishery. (1944:65)
The Stó:lō talk of a time when they fished seven days a week. In an interview conducted in 1985, Grand Chief P.D. Peters who was 73 at the time of the interview, spoke of hearing his grandfather talk about fishing in the river. Notes Grand Chief Peters, “when I was a kid, I think they were fishing seven days a week” (Stó:lō Tribal Council Oral History, July 12, 1985, p. 5). Mrs. Edna Douglas of Cheam also talks of a time when Stó:lō people fished seven days a week. Notes, Mrs. Douglas who was 65 at the time of the interview, "...we had seven days a week, we could fish all we want" (Oral History January 16, 1985, p. 4). But as Mr. Howard reminds us, Indian fishing was regulated, often strictly. Data regarding the number of allowable fishing days is only available for a time beginning in 1951, however it does reflect that the days available to the Stó:lō for fishing were indeed regulated by the federal government.20

Drawing on the available data regarding allowable fishing days for the summer sockeye run, we find that in the years from 1951 through 1961 open periods in the Fraser River Indian Food Fishery (IFF)21 were limited to four days per week, year round - 1800 hours Wednesday to 1800 hours Sunday. From 1962 through 1966, the number of allowable days would be reduced to three as concerns began to mount regarding the early Stuart sockeye run.22 The number of allowable fishing days was cut

20The more detailed accounting of the fishery that Gerald Howard called for in his 1944 report to International Salmon Fisheries Commission resulted in the more detailed accounting of Indian catches found in the reports after 1951.

21Indian Food Fishery or IFF was the official designation of the Aboriginal fishery prior to 1992 and the implementation of a new Aboriginal Fishing Strategy (AFS).

22The early Stuart run is the first sockeye salmon run of the year, so named because they return early in the fishing season to spawn in the Stuart River system in northern British Columbia. This run has been a serious conservation concern for decades and limited, if any fishing has generally been allowed. This run is of importance to the canyon wind dry fishers in that it occurs during the period of time
drastically when, in 1967, the river would be closed to fishing from July 3 to July 23, again to protect the early Stuarts. In 1968 there was a one day opening the first two weeks in July. This pattern of limiting fishing to one day a week from late June to early July would continue through 1973 as part of a mandate by fisheries officials to conserve the early Stuart sockeye run. In 1976, after a brief return to three days a week openings, concerns for the early Stuart run would force a return to the more restricted openings, whereby openings would then be limited to one day per week during this critical run time. In 1980 no fishing was allowed from the end of June until mid July, again in an effort to protect the early Stuart sockeye run. It has been the restricted fishing on this run that has led to the numerous confrontations and protests that continue to present. Not only does this time period in late June mark the arrival of the first sockeye into the river, it is the only time that sockeye can be wind dried in the Fraser Canyon. The wind dry fishery being an important fishery then as now. Families, primarily from Seabird Island, headed to the canyon to take advantage of a very small window of opportunity for wind drying their salmon. This window of drying time is limited to approximately two weeks during the month of July. Over the years, 'closures' to protect this run have resulted in confrontations between Stó:lō fishers and DFO as well as confrontations between wind dryers and other Stó:lō fishers.

The restriction on allowable fishing days was only one of the ways Stó:lō fishers were assaulted by fisheries regulations. When interviewed in 1985, Mrs. Edna Douglas of Cheam talked of the humiliating encounters with fisheries officers. Mrs. Douglas spoke of how different fisheries officers [in the canyon] would enforce different rules when canyon weather and wind conditions are optimal for drying the salmon on racks.
restrictions.

Quoting Mrs. Douglas:

There was a time so bad, in around, between 48 and early 50s, there was an officer in the Yale district, that was so bad that, it was just like you had a tyrant over you, or some truant officer. (Oral History transcript, January 16, 1985, page 6)

When asked what sorts of things he did, Mrs. Douglas responded:

Well he made you count your fish in front of him, and he'd come, and see maybe in a week he'd come and see, where you put it and how you did it or if you salted it he'd try and count in the barrel and he'd see where you put your canning was, he'd look into your deep freezer, see if you put it there. (Oral History transcript, January 16, 1985, page 6)

When asked if the officers actually entered her home, Mrs. Douglas responded in the affirmative:

If he seen them, say, with, say about 30 fish and to his estimation you only had about 15 in your jars, which he figured you might have had 15, he'd want to know what you did with the other 15. ....they stop you anywhere if you were shopping in town they'd come and look in your trunk. People knew that they were looking in your trunk for something. (Oral History transcript, January 16, 1985, page 7)

Prior to 1967 Indian fishers were only required to have a permit to fish. In 1967 the permit of earlier regulation became a special license which fishers were required to carry while fishing in case of inspection. The gill nets - the only allowable gear at that time - were required to display the license number. In one conversation Corky Douglas of Cheam (Edna Douglas' son) told me a story of time when he was very young fishing with his mother. It suddenly dawned on his mother that her license number was not on the net. As she ran back to the house to get the tag for the net, she instructed Corky not to let the fisheries officers come near the net. Non-compliance with the regulation could have resulted in the loss of net and any fish caught. Corky Douglas told me that
But equally as troubling to Stó:lō fishers was the requirement that all salmon taken under the license were to be marked by the licensee after capture. This marking took the form of cutting off the end of the nose and dorsal fin before removing the fish from the site (see Figure 1). Stó:lō fishers with whom I spoke talked of the years when salmon were required to be marked. Some said they refused to cut their fish. One fisher was quite blunt when he remarked to me, “My comment to fisheries officers was, how would you like your nose and dorsal fin cut off?” A review of court records revealed at least one conviction of a fisher in 1977 for failure to “mark” his catch. The accused pleaded guilty on August 7, 1977 and was placed on probation for a period of one year. As a term of his probation order, he was directed to surrender his permit to fish for a period of one month.23

Other restrictions included a limited transportation area for salmon caught in the Fraser. Imaginary boundaries were established throughout Stó:lō territory over which salmon could not be transported. In 1988 Bruce Crey from Cheam was prohibited from transporting fish he caught at his home reserve at Cheam when returning to his residence in Burnaby after a day of fishing. Bruce Crey filed a discrimination case with the Canadian Human Rights Commission, asking for an investigation into the regulation that forced him to “leave his dinner in Chilliwack when he returned to Burnaby” (Valley Times August 30, 1988). In Bruce Crey’s case, the boundary was in the vicinity of Matsqui. A fishery officer from the Chilliwack sub-district responded to Bruce Crey’s complaint with a statement published in the Valley Times indicating that the law to

NOTICE TO INDIANS

BRITISH COLUMBIA

The British Columbia fishery regulations require that all salmon and steelhead trout caught under authority of an Indian permit be marked for identification purposes by removal of the dorsal fin and the end of the nose or snout immediately after capture and before removal from the fishing site.

REMOVAL OF DORSAL FIN AND END OF NOSE WILL BE CARRIED OUT AS ILLUSTRATED BELOW:

DORSAL FIN REMOVED

END OF NOSE REMOVED

Place __________________   By Order

Date __________________    Minister of Fisheries for Canada

This Poster may be Displayed in Post Office Lobbies by Authority of the Postmaster General

F-3335 (Rev. 1/74)
which Bruce Crey had been referring was "found to be outside the Federal power to regulate and had not been enforced for many years" indicating that it was lawful for Bruce Crey to transport his fish home. Stó:lô fishers with whom I spoke talked of this regulation and how it had been used against them. They talked of enforcement officers following them home to see just how far they were traveling with the salmon they had caught.

The fisheries officer went on to counter Bruce Crey's remark that he had no choice about where he was to fish, by repeating the department's policy on the issuance of Food Fishing Licenses. According to the officer:

The department's policy respects the traditional fishing areas of the local bands and the authority of the Chief of that band to determine who other than band members will fish in that area. Should a status Indian from another area wish to fish in a traditional area, he must first obtain written permission from the band chief to do so, whereupon the department would issue him a license to fish. (Valley Times, September 2, 1988)

The officer further noted, that had Bruce Crey obtained the written permission, the Department would have issued him a license to fish. Presumably, Bruce Crey could have been able to obtain the required permission allowing him a license to fish away from his reserve. However, while claiming to respect traditional fishing areas, the officer's response to Bruce Crey's complaint reflects a lack of understanding of the connection between Stó:lô people and their traditional fishing sites.

Throughout the late 1960s - the point in time when early Stuart conservation concerns forced the closure of the river to Indian food fishing in late June to early July - Stó:lô fishers began to protest restrictions on their right to fish. In July of 1967 Chief Albert Douglas of Cheam commented to the press regarding the seizure of Indian fishing nets. Quoting Albert Douglas:
The fisheries department is seizing Indian nets and running a 24 hour patrol off the Cheam reserve near Rosedale while the lower Fraser is open to commercial fishers. Our people are being arrested and having their fishing gear confiscated while acting within their hereditary rights. All during the closure the commercial fishermen were allowed to use eight-inch nets. But the department ruled we couldn't use nets of any size. The government has 15 to 20 men patrolling the area by boat and car and others are sneaking through the bush. This is nothing but discrimination against Indians. Those were our fish long before the white man came and we still have a right to them. *(The Province, Thursday July 20, 1967)*

Indians protesting the curtailment of their fishing rights sought relief through the 1763 proclamation by King George III. A Vancouver attorney prepared a brief sent to Ottawa by the Indians indicating that the proclamation gave them the right to hunt and fish on unoccupied Crown land. Twenty Stó:lō worked on the brief, including Chief William Mussell of Chilliwack. Noted Mussell, the straw that broke the camel's back was not just the reduction to three days of fishing per week, but also the complete closure of the river to conserve the early Stuart run *(The Province, October 24, 1967)*.

Again in 1968, Indians pressed for an end to federal regulation of their fishing rights and chiefs warned that some would be ignoring those regulations. Of primary concern was the closure of the river in early July, the time when "there is a good wind to dry the fish" *(Vancouver Sun, May 3, 1968)*.

Stó:lō fishing families sought clarification of the fishing regulations affecting them when, in 1971, they requested a meeting the Jack Davis, then federal environment minister. One the complaints made by Mrs. Edna Douglas, spokesperson for the group of Native peoples meeting with Mr. Davis, focused on the fact that fisheries officers were going onto reserves and seizing fish from homes. However, the Native group's pleas fell on deaf ears, when the Fisheries spokesman for Chilliwack
indicated that the basis for the complaint was the continuing desire of Indian people to sell fish. Commenting on Mrs. Douglas's specific complaint, the spokesman said that officers had the right to search without a warrant. He also reminded the fishers of their obligation to 'mark' their fish. Such was the relationship between Stó:lō fishers and the government as the 1970s began.

By 1978 Stó:lō fishers would protest the imposition of a new IFF license resulting from the implementation of the "Salmonoid Enhancement Program," a project designed to deal with the phenomenon of the mixed stock fishery and to increase British Columbia's salmon resources through the construction of a large number of artificial spawning channels. According to Aboriginal leaders the new IFF license that was to be enforced in relation to this program would transform Indian fishing rights into Indian welfare privileges (Stó:lō Nation News, Coqualeetza, August 1978, No. 35). Hostilities escalated when in 1983 Indian fishers decried the use of raids on their homes in an effort to lay poaching charges. As a result of a 1982 sting operation, raids on Indian homes resulted in seized vehicles and salmon poaching charges against 129 Indian fisherman. Quoting the Native Brotherhood of B.C. president, Ed Newman:

They didn't go into the white community and wave money around. They didn't go into white people's homes and seize cars......The rights of Indian people in BC are on trial. (Vancouver Sun, January 20, 1983)

In 1894 various Stó:lō chiefs presented a letter to the Indian superintendent expressing their concerns about fishing regulations and over-fishing. Over one hundred years later, Stó:lō fishers would find themselves engaged in warfare on the water, protesting those same regulations and the conservation measures necessitated by industrial over fishing. In 1986 violence erupted at Gill Bay near the Cheam reserve
between fisheries officers and Stó:lō people when Stó:lō fishers protested the closure of the river and set their nets. Up to ten Stó:lō would face charges of mischief, obstructing a fisheries officer and illegal fishing in connection with the protest fishery at Gill Bay including Sam Douglas of Cheam and Lester Ned of Sumas. In protest, 60 members of the Cheam and Sumas Indian bands returned federal food-fish licenses to the fisheries department (Vancouver Sun, August 25, 1986). The incident at Gill Bay will be discussed in more detail in Chapter Four.

In 1989 the Stó:lō Tribal Council and Stó:lō Nation Canada came together to plan a strategy to deal with the fact that the Stó:lō were being continually forced off the river, particularly during the very important weeks in late June and early July. Meeting in the Seabird Island community hall, Elders from several Stó:lō bands rose to speak of the loss of fishing opportunities. Ray Silver, and elder of the Sumas band, talked of how people there had suffered because of the shortage. Quoting Mr. Silver:

We've got a long house on the reservation now. And lately we've had a few parties and when people come they expect to eat salmon. ...It's goddamned sad that we have to sit back when the fish come up the river and we can't feed our guests. It's pretty bad whey you have to go out and buy salmon. (Chilliwack Progress, Wednesday May 3, 1989)

Mr. Silver added that his band didn't catch fish during their 24-hour limit a few weeks ago and had to purchase some from a fish company. Other Elders present at the meeting spoke of the ongoing problem. Jimmy Fraser, an Elder from Seabird Island noted that:

We're lucky if we have enough fish to count on both hands. The way things are going now it would be cheaper for us to go to Safeway and buy our [Chinook] salmon. With the 24 hours we're just not getting enough to eat. (Chilliwack Progress, Wednesday May 3, 1989)

Reflecting the sentiments made clear when Stó:lō leaders met to negotiate with DFO,
Clarence Pennier (then chairman of Stó:lō Tribal Council and chief of the Scowlitz band) made clear the necessary steps to be taken:

The only way we'll ever see any change is through a concerted effort of the people to go fishing. Negotiations aren't going to happen. If we believe that that's our right, then we have to do it because we've exhausted the other avenues. (Chilliwack Progress, Wednesday May 3, 1989)

Summary and Discussion

While many factors have contributed to the loss of access to fishing sites, regulation imposed as a result of the industrialization of the fishery has most profoundly shaped the Stó:lō fishery in the historic period. Stó:lō fishers had adopted an array of fishing technologies as part of their traditional fishing strategies. Nearly all of those technologies were banned as a result of pressure from cannery operators. Restrictions were placed on where, when and how fish were to be harvested. Fishing times, sites and techniques were no longer decided upon by Siya:m but by fisheries officers. In essence, Fisheries officers became Siya:m.24

As evidenced by oral history testimony, interview data and archival newspaper reports, it is clear that federal fisheries officials worked systematically to remove Stó:lō fishers from the river and push them further to the economic margins. These actions that so clearly echoed the sentiments of Gerald Howard regarding the perceived unimportance of the Indian fishery "hardened the mortar" around a fractured fishery that had been created by regulations more than one hundred years earlier. By the 1990s it would be left to the courts to address the Aboriginal right to fish. In the following chapter I explore how the courts have reshaped the Stó:lō fishery by creating an in-

24Described by Ernie Crey as the result of decisions regarding access and management were transferred from Indian leaders to fisheries officers (1998).
river Indian commercial fishery. I also examine how perceptions of an in-river Indian commercial fishery factor into the responses of Stó:lō fishers.
Chapter Three: The Courts Reshape the Fishery

In 1988 Native fishermen from various bands headed to the Fraser River at Rosedale (Cheam territory) with plans to defy the regulations governing the so-called Indian food fishery, in which Native Indians were permitted to catch fish for food, but not sell them. As reported by the Globe & Mail, a coast wide protest fishery was scheduled to mark the 100th year of food-fishery regulations on the West Coast (August, 1988). The protest followed a court ruling that upheld several of the regulations Native fishermen were protesting that day (Globe & Mail, August 1988). In 1989 more arrests would follow as Aboriginal peoples fished in spite of river closures.

In late May of 1989, Melvin Malloway was arrested near Yale after exercising his Aboriginal right to fish. Reports the Chilliwack Progress, three people were arrested, including Melvin Malloway, and two nets were seized along with six chinook (spring) salmon, a boat, motor and trailer. The incident would be the second time in less than a week that fisheries officers had arrested people for alleged fisheries violations (May 24, 1989). It was also reported in the Chilliwack Progress, that about ninety percent of the 280 charges laid by Chilliwack Fisheries officers that season were for fishing during a closed time - Native peoples setting their nets when the food fishery was closed (Wednesday, September 20, 1989). Regulations aimed at the Native fishery were met with resistance when meetings with fisheries officials in the mid 1980s failed to secure any understanding of the economic importance of the fishery to Stó:lō people. Instead, Aboriginal leaders were informed by fisheries officials that short of relief from the courts
or direct action on the part of the fishers, no change in policy would occur. Aboriginal leaders took the fisheries officials at their word and responded; not only turning to the courts but also relying on organized acts of civil disobedience. The protest fishery at Gill Bay, which resulted in actual combat on the river, was the direct result of the DFO ultimatum. Bands would continue to fish in defiance of regulations and charges would continue to be laid.

It would be in the last decade of the 20th century that the courts would become a new battleground on which the Aboriginal right to fish would be fought. It is clearly evident that the years prior to the battle making its way into the courtroom were wrought with turmoil for the Stó:lō people. Two cases would make their way to the Supreme Court of Canada in the 1990s that would lay the groundwork for future claims regarding the Aboriginal right to fish: Sparrow and Vander Peet. The rulings in Sparrow and Vander Peet would prove to be important markers in history as both cases brought to the fore the question of an Aboriginal right to fish. In 1990, the Supreme Court of Canada ruled in *R v Sparrow* ([1990] 1 S.C.R. 1075) that the Aboriginal fishery took precedence over the commercial fishery, second only to conservation in priority. In *Vander Peet* ([1996] 2 S.C.R. 507), the right to sell in-river caught salmon was again challenged. While the Supreme Court ultimately supported the ban on sales, the lower court did acknowledged that a Native right to sell fish has existed in the past.

As a result of the courts’ rulings, significant changes were made in the fishery.

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25 In a conversation with one Stó:lō leader, a particular situation was described where an off the record comment was made to the Stó:lō leaders assembled regarding what would be necessary to effect any change in DFO’s policy. This was not the only such incident related to me, where it was made clear to Stó:lō leaders that the needs of Stó:lō fishers were of less importance than those of the industrial and sports fisheries.
In addition to acknowledging that the Aboriginal fishery was to take priority over all other fisheries, a new Aboriginal Fisheries Strategy (AFS) was implemented that included a Pilot Sale program providing for the legal sale of in-river caught sockeye for the first time in over one hundred years. In this chapter I provide an overview of the specific court cases, beginning with *Sparrow* and *Vander Peet* that directly and indirectly reshaped the Stó:lō fishery. I also discuss the Stó:lō fishery in the years since *Sparrow*, focusing on the "creation" of a commercial fishery and the construction of a bureaucracy charged with managing the post-*Sparrow* fishery. As a part of that discussion I seek to explicate how this bureaucracy not only did little to repair a fishery fractured by regulation, but also contributed to the many fissures within the "Indian fishery" as well as between the Indian and industrial fisheries.

**Indian Fishers and the Courts**

As in the past, fishing remains a critical component of Stó:lō life. Marilyn Bennett noted, in her statistical study of Indian fishing, that in 1972, traditional fishing places were still used by Indians of the Fraser River system. Eighty-nine percent of the key respondents to her study said that the band of which they were members had fishing places that have been in use for many years (1975:16). Mapping projects conducted in the 1990s and again in 2002 graphically depict the importance of fishing to Stó:lō people (see Figure 2). Supporting the map data are oral histories describing a time when "Indians could fish seven days a week." Interviews I conducted with elderly fishers describe a time when fewer restrictions were placed on allowable fishing days. However, as outlined in the previous chapter, fishing began to be curtailed in the early 1960s. Restrictions on allowable fishing days would continue throughout the late
Figure 2. Map of Stó:lo Fishing Sites

The Stó:lo Nation Aboriginal Rights and Title Dept. (AR&T) accepts no responsibility for the accuracy of the data shown on this map. Data is compiled from various sources and may not be stored at AR&T.

TRIM Data
(Terrain Resource Integrated Mapping)
Courtesy of WLAP.
Date last revised Jan. 1994.
STÓLO FISHING SITE Data
Conducted by Terry Clavin.
Team members include Henry Ned, Lester Ned, Ray Silver, Terry Mallory, and Vince Busto.
All above data translated and compiled by Stó:lo Nation, Aboriginal Rights and Title Dept. (Leeanna Rhodes, GIS Technician Aug 15th, 2003)

Legend
- 2002 Fish inventory
- 1977 Fishing Site Study
- Family Owned Sites "Fishing"
- Large Fishing Areas
- Roads
- Canals
- Railroads
- Islands
- Water

Stó:lo Nation Fishing Site Inventory Projects
Project: UTM Projected Coordinate System
Scale: 1:25,000
Datum: North American 1983
UTM Zone: 10

DATE: 2003/05/09
Company: Stó:lo Nation, Aboriginal Rights and Title Dept.

Figure 2: Map of Stó:lo Fishing Sites
1960s, 1970s, 1980s and 1990s as fishers faced significant changes in the industrial fishery as a result of policy changes directed first, at dealing with an over-crowed fishery and dwindling resource and second, at dealing with the implementation of the mandates following from Sparrow. When fisheries officials resorted to the curtailment of Aboriginal fishing as a means of dealing with changes in the industry, Aboriginal fishers protested government interference in their fishery. For example, near Chilliwack during the 1970 salmon fishing season, 100 young Indians conducted a 'fish in.'

Over the years, newspaper accounts would chronicle the on-going struggle over fishing rights as Stó:lō fishers continued to maintain their Aboriginal right to fish, that fight given new fuel by the court rulings of the 1990s. As Indian fishers turned to the courts to settle the struggle over fishing rights, a number of court rulings proved significant regarding Aboriginal rights in general and more specifically in regards to the Aboriginal right to fish. Not only did these cases reshape the Aboriginal fishery, they also shaped and reshaped perceptions of the importance of the Aboriginal fishery among both Stó:lō fishers and commercial fishers. Table 4 lists some of the court cases figuring prominently in regards to Aboriginal rights. These cases were mentioned most often to me by Stó:lō fishers when talking about the role of the courts in protecting the Aboriginal right to fish. In my discussions with Stó:lō fishers regarding the Aboriginal right to fish, the conversations usually began with a discussion of the role of fishing as a traditional element of Stó:lō life, and each conversation ended with that role of tradition discussed within a context of the advances in the courts as well as the protection of Aboriginal rights as part of the Canadian Constitution Act of 1982. In many instances, the roles of tradition, the courts and the Constitution in the
affirmation of Aboriginal rights seemed inextricably interconnected, much like the mesh of the Stó:lo fishing nets.

While all of the aforementioned cases have had some affect on the Stó:lo

Table 4. Aboriginal Fisheries Court Cases

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<tr>
<th>Case</th>
<th>Trial Date</th>
<th>Supreme Court Appeal</th>
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<tbody>
<tr>
<td>R v. Guerin</td>
<td>1975</td>
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<td>R v. Sparrow</td>
<td>1984</td>
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<td>R v. Kapp, Bemi, Neef, Leslie</td>
<td>1988</td>
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<td>Leslie, McDonald, Nguyen</td>
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fishery, as previously noted the most important court case was the Sparrow case (Boxberger 1993, Cameron 1997, Glavin 1996, Meggs 1991, Newell 1993, Souther 1993). In 1984, Ronald Sparrow, a member of the Musqueam band from near the mouth of the Fraser River, was arrested for using a net longer than allowed under his Indian food fishing licence. Ronald Sparrow admitted that his food fishing license did not permit him to fish with such a long net; however, he defended his action by arguing that he was exercising an Aboriginal right to fish (Cameron 1997). Attempts to defend Sparrow's action led, six years later, to the first Supreme Court decision relying on Section 35(1) of the Constitution Act of 1982, acknowledging existing Aboriginal rights.

\(^{26}\)The B.C. Supreme Court ruled July 12, 2004 that while the existing Native-only commercial fishery program had serious flaws it did not discriminate against non-Native fishermen.
In May 1990 the Supreme Court of Canada ruled in *Sparrow v. The Queen* that the Coast Salish right to fish was an existing Aboriginal right protected under Section 35(1) of the *Constitution Act* of 1982; specifically including the ‘Aboriginal right to fish for food for social and ceremonial purposes, a right taking precedence over other user groups and second only to conservation of the resource’ (Boxberger 1993).

Immediately, Aboriginal fishers put *Sparrow* to the test. As the ink was drying on *Sparrow*, protest fisheries were launched contesting DFO's conservation concerns and their decision to close the river to Aboriginal fisheries. In two protest fisheries, members of the Cheam and Sumas bands, including Chiefs Sam Douglas from Cheam and Chief Lester Ned of Sumas, were charged with illegal net fishing. Eighteen gill nets were seized over the July 7 weekend and twenty-three over the previous weekend. The band members fished in protest when a Fraser River sport fishery for Chinook (Spring) salmon was reopened after a brief closure. The river had been closed to protect the early Stuart sockeye run, a run that enters the river in late spring as the first sockeye runs begin. As noted earlier the restrictions placed on the Aboriginal fishery as part of DFO's plan to conserve the early Stuart run, were at the center of many, if not all of the confrontations on the river. Cheam Chief Sam Douglas questioned the conservation claims made by the government in light of DFO's decision to allow a sport fishing opening in the ocean as well as in the river (*Progress*, Wednesday, July 18, 1990). Within two months of the *Sparrow* decision twenty-one

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27 As noted earlier, restrictions on the Aboriginal fishery began in the early 1960s as concerns over the early Stuart run began to arise.
Native Indian fishers were charged with illegal fishing in protest of the closure of the Indian food fishery.

Testing of the Sparrow ruling continued when Melvin Malloway was arrested by two fisheries officers near Yale [where Ken Malloway fishes in the Canyon]. Again the protests centered on DFO’s decision to close the river to Aboriginal fishers due to a conservation concern. Two other Native fishers were also charged. The defense claimed that they were exercising their Aboriginal right to fish as defined in the Sparrow ruling. Malloway was found guilty of obstructing a fisheries officer and fined for fishing violations (Progress, Wednesday, September 5, 1990).

The Vander Peet case also had significant implications for the Stó:lō fishery. In Vander Peet, while accepting the fact that the history of Aboriginal peoples is passed from one generation to another through oral traditions and that testimony regarding practices and customs may come in the form of elders’ oral accounts, the court did not find that sufficient evidence existed to support the fact that a ‘commercial’ salmon fishery is integral to Stó:lō culture or heritage. Examining the case, Dorothy Vander Peet, a Stó:lō, was charged with illegally selling ten salmon caught by her husband, Chuck Jimmie under an Indian food licence. As with Mr. Sparrow, Mrs. Vander Peet did not contest the charges, arguing that she was exercising an existing Aboriginal right. The first trial judge held that the Stó:lō’s Aboriginal right to fish for food and ceremonial purposes did include the right to sell fish. However this ruling was reversed by the Supreme Court of Canada in 1996.

A great deal of confusion surrounded the original ruling in Vander Peet. Originally, the court ruled that a Native right to sell fish existed. But the ruling was not
that clear cut. B.C. Supreme Court Justice William Selbie ruled that a Native right to sell fish had existed in the past, but he left it up to a lower court to decided whether that right had been extinguished by federal fisheries regulations. Many Stó:lō fishers took this ruling to mean that they could sell fish without the threat of charges. But that was not the case. Stó:lō fishers were indeed charged for selling the fish they caught in the Native food fishery. Notes the Chilliwack Progress, dozens of Native were charged for selling fish from roadside stands and door-to-door. Buyers of the fish also faced the possibility of being charged (September 4, 1991). Referring to the comments made by Wayne Furness, Chilliwack senior fisheries officer to the press, “Newspaper headlines about the Supreme Court ruling were misleading and put a lot of people in jeopardy of being charged for selling fish” (September 4, 1991). But Stó:lō Tribal Council spokesman Clarence Pennier said that until the lower court ruled on the question of extinguishment, the right to sell fish existed. Quoting Pennier:

You can sell the fish, that’s what the judge said. When those charged finally come to court, I hope the judge throws the charges out.” (Chilliwack Progress, September 4, 1991)

According to Indian Fisheries Coordinator Gus Jaltema, “the federal fisheries' position hasn’t changed and those buying or selling fish caught in the Native food fishery would be charged under existing laws” (Chilliwack Progress, September 4, 1991).

In 1993 the B.C. Court of Appeals ruled that Mrs. Vander Peet did not have the right to sell fish. Stó:lō fisheries leaders, Ken Malloway and Ernie Crey, expressed concern over the effects of the Vander Peet ruling on the existing Pilot Sale Agreement, the second such agreement and legal sale opportunity since the implementation of the AFS in 1992. While industrial fishers and members of the B.C. Fisheries Survival
Coalition hoped the *Vander Peet* ruling would signal the end of the pilot sale program, the program did continue with Stó:lo fishers participating in it over the next four years. In 1996 the Supreme Court of Canada upheld the Court of Appeals ruling when it ruled that it was not shown that the trade in fish was integral to Stó:lo culture prior to European contact. This concept of "integral to" became the criterion for whether or not a band could sell fish (*Abbottfords & Mission News*, Saturday August 31, 1996).

Additional court cases have had a direct impact on the Aboriginal right to fish. In the case of *R. v Jack, John, and John* ([1995] CA 014766), the court held that permitting recreational fisheries at or near the location of the Aboriginal food fisheries while prohibiting Aboriginal food fishing violated the priority of the Aboriginal food fisheries as outlined in *Sparrow*. Joseph Jack, Arnold John and Martin John of the village of Tahsis were charged with fishing in an area and at a time not authorized by the Fisheries Act. His Honor Judge Sarich of the Provincial Court of B.C. held that the DFO had unilaterally imposed the fishing allocation by not discussing the closure of Leiner River with the Indians. According to Judge Sarich, this did not reflect the special trust-like relationship between the Crown and the Indian people.

In the case of *R. v Nikal* ([1996] 1 S.C.R. 1013), the court ruled that the license required by DFO did not itself impose an infringement of an Aboriginal right to fish. However, the conditions imposed on the licensee did constitute an unjustified infringement of the appellant’s right to fish. Jerry Nikal a Wet’suwet’en Indian and member of the Moricetown Band was fishing in the Moricetown canyon, where Wet’suwet’en Indians have fished since time immemorial. He was charged with fishing without a license. Native persons, although required to have a license, were entitled to
a free permit to fish for salmon in the manner they preferred. Nikal had been gaffing salmon in the Bulkley River where it flows through his reserve. He took the position that the licensing scheme infringed on his Aboriginal rights as provided in Section 35(1) of the Constitution Act of 1982 and was therefore inapplicable. In this case the Court determined that licensing was not an infringement in general, but that an infringement did exist in particular to Mr. Nikal’s situation.

At least two cases focusing directly on Aboriginal rights have figured prominently in the cases involving fishing rights. The first being *R. v. Guerin* ([1984] 2 S.C.R. 335). The case involved the lease of 162 acres of the Musqueam Reserve to accommodate the prestigious Shaughnessy Golf and Country Club. In short the Department of Indian Affairs leased the land to the Club on substantially different terms than those agreed upon by the Musqueam Band. The initial case was filed in 1975 and heard by three levels of courts. Finally, in November of 1984 the Supreme Court of Canada ruled in the Musqueam’s favor and reinstated the trial award of $10 million in compensation. The Supreme Court upheld the Musqueam’s claim of a pre-existing Aboriginal title to their reserve, and that those rights existed independently of any recognition or action by government. Additionally, the court addressed the fact that the government had breached its fiduciary duty in accepting a lease contrary to the Musqueam’s stipulations.

A monumental decision regarding Aboriginal rights and title was the *Delgamuukw* decision in December of 1997. *Delgamuukw* ([1998] 3 S.C.R. 507) addressed the issues of extinguishment of Aboriginal title and established the test for Aboriginal title. Most importantly, the Supreme Court corrected the errors of fact made
by the trial judge, in establishing that oral histories were indeed legitimate for establishing Aboriginal title. As regards fisheries (and other natural resource issues), *Delgamuukw* stipulated that constitutionally recognized Aboriginal rights may be infringed upon by the federal government, but that infringement must be justified and cannot come without consultation with First Nations.

Another pivotal ruling directly regarding fisheries was the landmark decision in *R. v. Marshall* ([1999] 3 S.C.R. 456) in the Fall of 1999. In *Marshall*, the Supreme Court of Canada recognized the rights of Mi'kmaq Indians in Nova Scotia to catch and sell fish in accordance with their traditional practices. While applauding the Court's recognition of Mi'kmaq treaty rights in regards to their fishery, Stó:lo fishers with whom I spoke expressed concern over the potential effects of *R v. Marshall* in regard to their ability to profit from a salmon fishery. Of specific concern by Stó:lo fishers were the limits the courts placed on the profitability of the Mi'kmaq fisheries. Donald Marshall, a Mi'kmaq Indian, was charged with three offenses set out in the federal fishery regulations - the selling of eels without a license, fishing without a license and fishing during a closed season with illegal nets. He admitted that he had caught and sold 463 pounds of eels without a license and with a prohibited net within closed times. According to the court documents, the only issue at trial was whether or not he possessed a treaty right to catch and sell fish under the treaties of 1760-61 that exempted him from compliance with the regulations. Under close scrutiny was the trade clause in the treaty. An overview of the history of the treaty reveals that during the negotiations leading to the treaties, the Aboriginal leaders asked for truckhouses "for the furnishing them with necessaries, in Exchange for their Peltry". The written document contained only the
promise by the Mi'kmaq not to “Traffic, Barter or Exchange any Commodities in any manner but with such persons, or the Manger of such Truckhouses as shall be appointed by His Majesty’s Governor.” In short, the purpose of the clause was to ensure peace between the Mi'kmaq, who previously been allied with the French, and the British. The clause obviated the need of the Mi’kmaq to trade with the enemies of the British.

Initially, Marshall was convicted on all three counts. The Court of Appeals upheld the convictions, concluding that the trade clause did not grant the Mi’kmaq any rights. The September 1999 ruling by the Supreme Court of Canada ruled there was more to the treaty than the merely the right to bring fish and wildlife to truckhouses. Absent from the treaties were the oral promises made and all the terms and conditions mutually agreed upon. The Court relied heavily on the phrase “securing necessaries” establishing that what is contemplated was not right to trade generally for economic gain, but rather a right to trade for necessaries. Further the Court noted that the right could be contained by regulation within its proper limits. Specifically, catch limits that could reasonably be expected to produce a moderate livelihood for individual Mi’kmaq families at present-day standards can be established by regulation and enforced without violating the treaty right. It is this phrasing - moderate livelihood - in the ruling that troubled Stó:lō fishers. For them, Marshall is not to be seen as a template for on-going treaty relations among the Stó:lō and the federal and provincial governments. Nor do the many Stó:lō fishers wish for Marshall to be a template in future negotiations for sale agreements. These fishers contend that the ability to profit
from the salmon fishery is indeed a part of Stó:lō tradition.\textsuperscript{28}

Finally, turning to the Kapp decision, Stó:lō fishers were handed a devastating blow when the sales agreement they had negotiated in the summer of 2003 was withdrawn by DFO in the wake of Judge Kitchen's July 2003 ruling that the Aboriginal fishery was a race based fishery and therefore illegal under the Charter of Rights and Freedoms. This was the first agreement signed since the summer of 2001. According to the court documents:

\textit{.....the Aboriginal Communal Fishing Licences Regulations, Sections 8 and 9 of the Regulations Amending Certain Regulations Made Under the Fisheries Act (Miscellaneous Program), SOR/2002-225 (the "Amending Regulation") and the Aboriginal Fishing Strategy in general violate Section 15 of the Charter of Rights and Freedoms in that they authorize exclusive commercial fishing by an organization whose membership is based on race, a prohibited form of racial discrimination. ([2003] BCPC 0279)}

Before the court were a number of non-Native commercial fishers who, in August of 1998, fished in protest of an Indian fishery opening. At stake was the constitutionality of the Aboriginal Fisheries Strategy (AFS) and the subsequent sales agreements implemented as a part of that plan. Stó:lō fishers were left that summer without the agreement for the legal sale of salmon. The Kapp decision would be overturned the next year, and a sales agreement between Fisheries and Oceans and Stó:lō fishers would be reached in the summer of 2004.

The Creation of a Commercial Fishery and the Potential for Shared Management

In the mid to late 1980s Stó:lō fishers pressed for a more active role in the management of the fishery. Soowahlie Chief Doug Kelly spoke out in 1986 about the need for a "Native partnership" in the management of the fishery \cite{Chilliwack Progress, More discussion regarding wealth accumulation is found in chapter 6.}
Chief Kelly noted that the Native fishery was the last in line and received the least amount of the catch and the most enforcement. Chief Kelly also pointed out the hatchery projects and stream enhancement projects underway by a number of the Stó:lō bands. According to Chief Kelly, “Projects such as these, clearly demonstrated a responsible attitude towards conservation of salmon on the part of the Native people” (Chilliwack Progress, Wednesday, September 10, 1986).

In an effort to obtain the goal of co-management, the Stó:lō Tribal Council submitted a formal fisheries co-management proposal to the Department of Fisheries and Oceans in April of 1988. Their proposal was simply filed away, with no action taken. The implementation of a new AFS in 1992 would give Stó:lō fishers hope for an increased role in managing the fishery as a part of the AFS.

Originally the AFS was a seven year program charged with a number of specific goals designed to serve all users of the resources:

- meeting Sparrow obligations to Natives in a manner which supported resource conservation and strong commercial and recreational sectors
- phasing in the transition to commercial sale of the Aboriginal catch through limited testing in years one and two
- involving stakeholders in crafting the strategy
- funding to Natives to promote maximum employment and involvement in resource conservation
- clarifying the Aboriginal allocation in order to provide greater stability, predictability and profitability to all sectors

To accomplish these goals over 80 agreements were reached with groups representing the majority of BC Aboriginal people. As a part of implementing the AFS, Fisheries and Oceans earmarked $140 million dollars nationally over seven years with most of this funding to go to help develop and implement on-the-job-training programs and to increase Aboriginal participation in fisheries management. To offset any reallocations...
of fish from the commercial sector to the Aboriginal communities, DFO introduced a voluntary License Retirement Program (LRP). The LRP was to ensure no increase in the total amount of fish being harvested on the Pacific Coast. The federal government made $7 million dollars available for the LRP. At total of 75 commercial license holders voluntarily retired their licenses in the spring of 1993.

On June 29, 1992 DFO announced that a plan was to go forward as a means of phasing in the transition to a commercial sale of the Aboriginal catch. A 'Pilot Sale Arrangement' (PSA) was established as part of the AFS whereby various Native groups in British Columbia and elsewhere were permitted to sell fish subject to agreements specifying allocations and management regimes. The arrangements were intended to test how Native sales would work within specified allocation levels and identify potential problems (Gardner Pinfold 1994). Three groups were selected to participate in a program allowing the sale of Native-caught fish. Test sale agreements were signed with the following groups:

- the Lower Fraser Aboriginal Fishery Commission on the lower Fraser River representing the Stó:lō Indian Bands (Stó:lō Tribal Council and Stó:lō Nation Canada) and the Musqueam and Tsawwassen Indian Bands;
- Tsu-ma-uss Fisheries in the Alberni Inlet-Somass River area on the west coast of Vancouver Island representing the Tseshaht and Opetchesaht, two of the Nuu-Chah-Nulth First Nations; and,
- each of the Tsimshian Tribal Council, the Gitksan and Wet’suwet’en Watershed Authorities, the Nat’oot’en First Nations on the Skeena River.

While the agreements negotiated in 1992 represented the first legal sale of sockeye in over one hundred years, the agreements were superceded by a small project conducted in 1986 between DFO and the Chehalis Band. As noted in the Chilliwack Progress, Chehalis Indians made fishing history after they began harvesting
salmon commercially on the Harrison River (Wednesday, November 5, 1986). The band received a federal permit to harvest 9,000 chum salmon by December 20, 1986 as part of a surplus chum salmon fishery. This marked the first time commercial fishing had been permitted on an inland tributary of the Fraser River system. Ernie Crey, who was employed by DFO at the time the Chehalis project was approved, explained to me that what was important to note about the Chehalis project was that it was not a ‘rack harvest’ (meaning a harvest taken at the hatchery) but a harvest taken in the river. In our conversation regarding the Chehalis fishery, Ernie Crey remarked on the number of serendipitous events leading to the approval of this fishery; some people being in the right place at the right time, while others being away at the right time. Ernie Crey also remarked about how he “caught hell” from Sam Douglas when word of the project got out; Sam Douglas wondering why Ernie Crey was not able to obtain such a proposition for the Cheam band - his own band.

The historical agreements signed in 1992 by DFO and the various Fraser River Aboriginal groups authorized the commercial sale of sockeye salmon within specified numerical limits, negotiated each year, and in 1992, based on historical catches and fisheries authorities Native accommodations on harvests in recent years (Gardner Pinfold 1994). As a part of this first agreement negotiated by the newly formed LFFA, 325,000 sockeye were allocated to the Stó:lō Tribal Council and Stó:lō Nation Canada, collectively. Stó:lō fishers believed they were on the threshold of a turning point in history. All that remained for the formal staffing of an Aboriginal agency designated to oversee the implementation of the agreement.

On June 30, representatives from Stó:lō Nation Canada (Aboriginal leaders
George Campo; Ken Malloway; Joe Hall and Mike Whelan a non-Native biologist employed by Stó:lo Nation Canada) along with representatives from the Stó:lo Tribal Council (Aboriginal leaders Clarence Pennier, Sam Douglas, Lester Ned and Doug Kelly) met to determine who would manage the newly created bureaucracy required to oversee the pilot sale fishery: The Lower Fraser Aboriginal Fisheries Authority (LFFA). Prior to coming together as part of the LFFA, the Stó:lo Tribal Council and Stó:lo Nation Canada operated fisheries departments. Chief Doug Kelly from Soowahlie told me the story of how Ernie Crey came to be hired to oversee the newly emerging fisheries office. According to Chief Kelly, it was decided that the individual to be hired should be Stó:lo, should be a fisherman, should have worked for the government, should know the industry and should have management experience. On July 1, 1992, Ernie Crey a member of the Cheam band was hired. Just the day before Ernie Crey had resigned from his position as Vice-President of the United Native Nations. Ernie Crey had been employed by the Department of Fisheries and Oceans

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29 The name of this entity would change the next year to the Lower Fraser Aboriginal Fisheries Commission and would eventually become the Stó:lo Fisheries Department when the two groups came together in 1994.

30 Upon taking the position with the LFFA, Ernie Crey would find himself at home, finally. Forcibly removed from his home in Hope at the age of 12 after the death of his father and his mother’s decline, Ernie Crey was also removed from the Stó:lo way of life he had learned from his parents. On what can only be described as a Saturday adventure, Ernie Crey took me by his uncle’s home in Hope as he delivered fish before heading to Lester Ned’s boat below Mission Bridge. As we drove, Ernie Crey told me about his family; about how his father would sit in the park in Hope and visit, speaking fluent Halq'emeyəm with those coming up-river and fluent Nlaka'pamux with those coming down river. If the person with whom he was talking spoke neither language, he would communicate with them in Chinook jargon. Ernie Crey asked his father to teach him ‘his’ language, but his father insisted on Ernie and the children speaking English, as English would be the language they would need to get by in the world.
From 1984 to 1990 as an Aboriginal extension officer. Through this position with Fisheries and Oceans he had become well known to Sto:lo fishers.

Within two weeks of taking the position Ernie Crey found himself dealing with a chaotic fishery as well as dealing with a court injunction filed by the Yale band protesting Sto:lo fishing in the canyon. An on-going battle has existed between the Sto:lo Nation and the Yale band regarding fishing in the canyon. Two-thirds of the Sto:lo fishery is conducted in the canyon, where such highliners as Ken Malloway have fished for many years. In my interviews with Sto:lo fishers I was told of some the fist fights that have taken place between Sto:lo fishers and Yale band members over the canyon fishery. Ken Malloway talked to me about tangling with the Hope brothers from Yale. Criswa Bierwert notes how during the Yale band's court case, Ernie Crey took a group of supporters to lunch including several chiefs in attendance at the trial. Writes Bierwert, "he facilitated a council-like discussion with the chiefs while another member of his management team pumped in advice and information via the cellular phone" (1999:249). In July of 1992 Yale Indians claimed that the newly formed LFFA had not received permission from the Yale Band to fish in the Fraser Canyon.31 On July 16th

31 In 1879 Reserve Commissioner G.M. Sproat reserved fishing stations in the lower canyon, these reserves today being held by the Yale Band (aside from the one reserve transferred in 1913 to the Ohamil band. Members of the Yale Band have consistently tried to force Sto:lo fishers out of the canyon and what they say is their territory, access to which they have not granted to outside fishers. Keith Carlson and Sarah Eustace prepared a report for the Sto:lo Nation (while employed with the Nation) that details the contentious situation. In July of 2002 the Yale Band (or Yale First Nation as they refer to themselves) signed a memorandum of understanding with the representatives from the federal and provincial governments implementing a land protection treaty-related measure, covering 181 hectares of Crown land in the Hills Bar area near the Yale First Nation community. I was present at the Sto:lo fisheries meeting when a copy of the announcement and accompanying map of the area was distributed to the band chiefs and fisheries representatives present. There was a great
the band petitioned the court for an injunction preventing other Natives from fishing in what they claimed were their waters (Province, July 17, 1992). The Yale band was not granted their injunction and the fishery went on as scheduled the next weekend.

The Yale band would, again in 1995, seek exclusive fishing rights in the canyon. Yale band members had hoped to reach a fisheries agreement in treaty talks with federal and provincial negotiators in June of 1995 (Chilliwack Progress, April 1, 1995). The Yale band took their plea, yet again, to court in 1998 seeking another injunction to stop the DFO from issuing licenses to other Stó:lō bands fishing in their traditional territory. The band claimed it had occupied that territory “from time immemorial” (Chilliwack Progress, May 5, 1998). And again in 2002 the Yale Band tried to assert a claim over the canyon fishery by using a “site specific” fishing claim as their defense in court when several members of the band appeared to answer charges laid in the deal of discussion regarding the fact that the area under question contains Stó:lō fishing spots. Reporting on Yale’s actions in the October 2002 issue of the Sqwelqwels Ye Stó:lō, Chief Ron John from Chawathil noted that the Yale Band was laying claim to all the canyon fishing sites that had been used in common “centuries upon centuries.” Note Chief John, “We have several grave sites up there to prove it” (page 9). Again that summer I was present in the courtroom in Chilliwack where members of the Hope family from Yale faced charges of fishing during a closed time. As a part of their defense, they seek to establish they possess a site specific fishing right and presented evidence seeking to put forth the fact that their closest family connections are with First Nations people in the canyon area above them - Nlaka’pamux territory. They were seeking to disconnect from their Stó:lō relatives in an effort to nullify any Stó:lō fishing rights in the canyon. In 1905 the B.C. superintendent of Indian Affairs met with a large group of Stó:lō leaders in the Fraser Canyon and mapped family-owned fishing sites. Most of the owners of the sites resided in down river communities (Carlson 2001:59). The names of the canyon highliners do not appear on the map, a fact that was brought up in court testimony as part of the case I observed. However, ethnographies and other works written about the Stó:lō make clear the privileges extended to family members. Therefore the fact that the last name of Malloway does not appear on the map does not necessarily mean he has not family connection in the canyon. Names associated with families in Cheam do appear on the map.
summer of 2000. At present, the final ruling in that case remains pending.

Despite Yale's attempt to halt the sale fishery in 1992, the first legal sale of in-river caught salmon in over one hundred years began in a whirlwind fashion. From their base in the old Tzeachten community hall, Ernie Crey and his team set about processing requests from fishermen for designation cards and information regarding where to fish. A map of the river adorned with stick pins marking fishing spots hung on the wall. Notes Ernie Crey in one of the many discussions we had regarding the PSA, the number of "licensed" fishermen would grow from approximately 800 to over 1500 as a result of the Pilot Sale fishery. Newspaper headlines recorded this monumental moment in time: "Indians fish without fearing the law for the first time" (Vancouver Sun, July, 1992). Scott Simpson, Sun Native Affairs reporter writes that:

When Chief Sam Douglas nosed his aluminum punt out into the swirling olive current of the Fraser River at dawn on Friday, it didn't feel like a particularly special morning. Up and down the Fraser he could hear the faint buzz of power boats as dozens of other Stó:lō Indians skittered out at daylight to see if salmon had tangled themselves in the nets laid out the evening before in the shallow eddies. .....Quoting Sam Douglas, "Everyone has asked me the same question, how it felt. I guess I've felt for so long that it was our right that didn't really faze me that on that one day we were going to be able to sell them."

Three years ago, an Indian-caught sockeye might have fetched $2 on the black market, bought at the back door by fish markets, small-time processors or pub patrons. This year the same fish is worth $1.60 a pound and for the first time in his 51 years, Sam Douglas doesn't have to look over his shoulder when he offers it for sale. Quoting Sam Douglas, "We can load them up in the back of the pickups and we don't really care who sees us with a fish-tote on the back. Before if we drove down the road with a fish-tote, fisheries was right behind us, following us to where we were going." (Vancouver Sun, July, 1992)

But the program in 1992 got off to a rocky start as the early Stuart sockeye were already running up-river when the agreements were announced in late June (Pearse 1992). This rocky start was compounded by the fact that the 1991 season had been
marred by conflict and tension as a standoff had existed between Indian fishers and
DFO again, over conservation measures concentrated on the early Stuart run. Some
Indian fishers refused to obtain licences and there were many violations regarding
closures, net sizes, net markings and illegal gear. Pearse notes that the first year of
the PSA was plagued with numerous problems, specifically up river in the Stó:lō area
from Langley to Sawmill Creek and further upstream in the canyon where no
agreements were in place. In addition to the unprecedented number of fishers, this
first year was besought with management confusion and weak surveillance and
enforcement. According to Pearse there were problems of overcrowding, intimidation
and even violence ensued. There were many reports of stolen fish and fishing gear
(1992:17). Pearse reported that the peak count of nets in the lower river doubled from
434 in 1991 to 885 in 1992, straining the established system of tenure regarding fishing
places (1992:17). According to Souther, in her discussion of the AFS, the fishing effort
increased by an estimated seventy-five percent due to the influx of individual fishers
seeking to 'make their fortune' in the new commercial in-river fishery (1993). Long-
time fishers expressed concern over the crowded situation on the river and the loss of
fish to those fishing strictly for food and to the wind-dried fishers at the "Elder's Camps"
(Cranmer 1995). In 1992 camp owners were pressured by newcomers and elders
complained their fishing sites were be pre-empted by outsiders (Pearse 1992:17).

Problems continued to mount after the first year of the PSA. Reports of 'missing
fish' began to appear in the newspapers and industrial fishers blamed Native fishermen

32 Bands up river from the Stó:lō were not part of the Pilot Sale project and this resulted
in a contentious relationship between those bands and the Stó:lō bands.
fishermen and the newly instituted PSA. Notes the *Chilliwack Progress*:

Accusations are almost outnumbering the salmon as the DFO scrambles to account for the alleged "disappearance of hundreds of thousands of Fraser River Sockeye. Latest government figures estimate about 300,000 fish are missing, but the United Fishermen and Allied Workers' Union (UFAWU) has said that possibly as many as 1,000,000 fish have been illegally caught. (Wednesday, August 26, 1992)

Ernie Crey, fisheries manager of the Lower Fraser Fishing Authority chalked the missing fish phenomenon up to Mother Nature and denied that illegal fishing by Stó:lō Natives could account for the missing sockeye. Crey noted that patrols of the river and Native fisheries made it impossible for the Native fishermen to have harvested thousands of fish illegally without anyone noticing (*Chilliwak Progress*, Wednesday, August 26, 1992). Explains Crey in his letter to the Editor of the *Vancouver Sun*:

Federal fisheries managers announce that they are unable to account for between one million and 1.5 million Fraser bound salmon, and your newspaper of September 12 [1992] devotes space on its front page, on page B1 and B2 to allegations about enforcement problems and "Indian Poaching."

Forget for a moment that nowhere in your articles do you mention that Reform MP John Cummins, who so bravely unveiled the "leaked" government document to your reporters, was one of the founders of the Fisheries Survival Coalition, the single-issue organization opposing Aboriginal fishers.

Forget for a moment that it would take about 10,000 pickup trucks fully loaded with sockeye in a bumper to bumper convoy from Chilliwack to Vancouver with crazed Indians at the wheel of each truck, in order to steal that many salmon. And we would have had to pull this off without anybody noticing.

And forget for a moment that in the brief century since the likes of Mr. Cummins assumed control of Fraser River salmon management from the lying, cheating, stealing, poaching Indians, four fifths of the Fraser River's sockeye salmon have "gone missing" along with four-fifths of the pink salmon, half the chum salmon, six-sevenths of the coho, and four-fifths of the chinook salmon. (Ernie Crey, September 22, 1994)
University of British Columbia Economics professor Dr. Peter Pearse and semi-
retired fisheries scientist Dr. Peter Larkin were called upon to investigate the mystery of
the missing fish. As a result of their investigation, Pearse and Larkin advised that an
estimated total of 482,000 sockeye believed to be in the river bound for their natal
streams failed to reach their spawning grounds; not the 1,000,000 alleged by
commercial fishing groups. The report did support the fact that most of the missing fish
appeared to be taken between Mission and Lytton - which made up the bulk of the PSA
fishing area. Notes Pearse and Larkin:

We are confident the bulk of the missing fish resulted from intense
fishing on the river last summer. Most of these fish were taken in
unrecorded catches, but some died from stress after fighting their
way through a gauntlet of nets. We cannot say who took these fish
or how they were disposed of or where they went. Nor can we say
they whether they were caught illegally. (Chilliwack Times, Tuesday,
December 8, 1992)

Pearse and Larkin further remarked on the first PSA experimental year, by noting that
the "Indian fishing agreements, which allowed the LFFA to manage their own fisheries
and sell their catch commercially for the first time ever, worked well in some places, but
poorly in others. The report chalked the problems in the first year of the fishery up to
the fact that arrangements were made at the last minute with insufficient preparation.
Stó:lō fishers felt they were indeed vindicated by the Pearse/Larkin report. Essentially
the report stated that 201,000 of the missing fish were caught in gillnets, while another
248,000 died in the river, half from natural causes and half from 'gillnet' induced stress.
Another 33,000 were accounted for in errors made in the spawning bed counts
(Vancouver Sun, December 8, 1992). The report was indeed critical of the way the
fishery had been conducted that first year, but the report made it clear that far fewer
Changes were made in the program in an effort to address the problems present in the first year, such as the problem of unrecorded catches. Among the changes made were the instituting of a plan to count all salmon immediately upon landing, the creation of a Aboriginal enforcement unit and a change in the structure of the licensing as part of the AFS. Looking first at the new licensing structure, issued on June 16, 1993:

His Excellency the Governor General in Council, on the recommendations of the Minister of Fisheries and Oceans, pursuant to section 43 of the Fisheries Act, is pleased to hereby revoke the Aboriginal Fisheries Agreements Regulations, made by Order in Council P.C. 192-1456 of June 26, 1992 and to make the annexed Regulations respecting fishing carried on in accordance with Aboriginal communal fishing licenses, in substitution therefore. (Fisheries Act SOR/93-332)

Previously licenses were issued directly by DFO to individual Stó:lō fishers. Under the new licensing regulation, communal fishing licenses would be issued as described in the DFO Backgrounder dated March 26, 1993:

All Aboriginal fisheries in 1993 will be governed by way of Communal Licenses granted to Bands or Tribal Councils. Each band or council will be responsible for issuing designation cards to all fishers in their area.

Other significant changes were instituted in 1993 as spelled out in the March 26, 1993 Backgrounder included:

- controls on fishing effort, such as a limit on the overall number of nets being fished, were included in negotiation of fishery agreements.
- standardized marking required on fishing gear, and fishing plans to establish where and when fishing would be authorized.
- all fish caught under AFS agreements, whether used for sale, personal consumption, ceremonial, or social purposes will be accounted for in a comprehensive catch monitoring program. Mandatory reporting provisions to be negotiated as a component of fisheries agreements. Adherence to reporting requirements will be the responsibility of Aboriginal groups through band appointed observers and Native Guardians, and to be strictly enforced by
Fisheries Officers. Aboriginal fishing authorities required to assure the department that all fishers in compliance.

- delivery of fish caught under the authority of communal licenses to designated landing sites to be required and fishers to declare to the landings site they intend to use when receiving their designation cards (e.g. where will you be fishing). Where sales permitted, fish may only be sold to persons holding a Provincial buyer's license to ensure full compliance with reporting of fish.
- observers to be in place at each landing site during fisheries openings until all fish are landed.

Paramount among the changes in 1993 was the creation of a new enforcement team comprised of Aboriginal fisheries officers. In May of 1993, fourteen Aboriginal fisheries officers participated in graduation ceremonies after being trained by the federal government to monitor and enforce fishing regulations. LFFA-appointed officers included: Wayne Bobb, Jr. (Seabird Island), Todd Chapman (Skawahlook), Clay Charlie (Chehalis), Wayne Kelly, Jr. (Soowahile), Anthony Malloway (Sardis), and Lester Ned, Jr. (Sumas). This newly graduated group, was believed to be the first in Canada. This accomplishment was heralded as "a start of a new beginning for Stó:lō bands along the Fraser River," as reported by Wayne Bobb, Sr. to the Chilliwack Progress, Wednesday, May 5, 1993.

In addition to DFO’s addressing the problems of the 1992 fishing season, the Stó:lō themselves sought to deal with a number of concerns arising that first year. In 1993 a community consultation process was instituted in an effort to determine the problems and needs arising from the PSA in an effort to address those problems and needs before the 1993 sockeye fishery. A series of community hearings were held throughout Stó:lō territory wherein a number of issues were addressed including the number of nets per fisherman/family; the possibility of habitat restoration projects as part of the AFS; the protection of food fisheries, in particular the dry rack fishery;
equitable distribution of fish; the number of newcomers on the river; to possible areas of economic development related to the commercial fishery. A comprehensive, two-part report was prepared by Terry Glavin in his capacity as public liaison for the LFFA. The report, entitled *Rebuilding Stó:lō Fisheries Law: Report of the Community Consultation*, noted the concerns expressed within the many affiliated Stó:lō bands and covered a wide range of categories:

- the problems caused by the existence of “signatory” and “non-signatory” bands (differing fishing times, conflicts over sales; the dramatic volume of “new” fishermen on the river; the perception that many U.S. citizens were suddenly appearing on the fishing grounds; difficulties in communication between LFFA and Stó:lō fishermen; and the emergence of volatile and widespread fishing-site disputes; access to the fishery and questions about the nature of the right to fish; limit on number of nets in the river; and need to respect accustomed family held fishing sites

The ultimate goal of the process was to develop a fisheries ‘code’ or similar statute - in effect Stó:lō fisheries law (Glavin 1993:8). No authority existed to deal with this issues, as Ernie Crey explained to me and to countless new fishers during his tenure managing the fishery, without any collective mandate from the numerous Stó:lō bands, the function of the LFFA and all of its subsequent incarnations, was to prosecute the terms and conditions of the fisheries agreements not settle disputes arising among the fishers. The community consultations had been designed to establish an authority to handle disputes, but no formal code was ever developed. Many of these same concerns would be addressed again in the summer of 2002. And as in 1993, most, if not all of the 2002 concerns went un-addressed.

Stó:lō fishers fished under sales agreements in the years 1992 through 1997. An agreement was not reached again until 2001. Fraught with problems over allocation
amounts, priorities over the fishing areas and fears regarding the extinguishment of Aboriginal rights negotiations failed to produce signed agreements in the years after 1997. Compounding the problems just listed, was the increase in the threshold number of signatory bands mandated by DFO. In an effort to bring as many Stó:lô bands as possible into compliance, DFO began to require a greater number of bands participating in the agreements before allowing any of the bands to participate. This posed a significant problem as large bands such as Seabird Island stopped signing agreements in 1997 and the often described militant Cheam band also ceased participation in the program. In 1997 there were approximately 1417 fishers licensed to participation in the “sale fishery.” Another 124 were licensed as part of a food fish only fishery; including 94 fishers from Cheam.

**Industrial Fishers and the Pilot Sale Arrangement**

The Aboriginal Fisheries Strategy and the Pilot Sale project, drew heavy criticism from the commercial fishing sector. By the time of the 1992 AFS, the industrial fishery had gone through a number of changes including a buy-back program as a part of the Davis Plan implemented in 1968 as part of an effort to reduce the number of vessels in the fishery. A reduction in the size of the industrial salmon fleet would continue through the 1970s, resulting in only 4,707 vessels remaining, down from 6,104 in 1969 when the Davis Plan was implemented (Meggs 1991). In reaction to yet another potential erosion in the industrial fishery, in 1992 the Pacific Fisheries Alliance and the B.C. Fisheries Survival Coalition sought an injunction in B.C. Supreme Court to suspend the AFS in the Lower Fraser on the grounds that “1.2 million” sockeye had “gone missing” in the Lower Fraser River’s tribal fisheries. Notes Ernie Crey in his
speech to the Action Agenda for Self-Government conference, "Their case was thrown out of court, but the damage was done" (November 7, 1993). In the months prior to Ernie Crey's speech to the Self-Governance conference, municipalities in B.C. including Maple Ridge and Langley township had picked up on the B.C. Fisheries Survival Coalition's call for an end to special fishing rights for Indians, sending letters of protest to Fisheries Minister John Crosbie (Vancouver Sun, Saturday, April 24, 1993).

In light of the missing fish phenomena of 1992 and 1994, additional restructuring of the industrial salmon fleet was brought about in 1996 with the implementation of the Mifflin Plan. Prior to the Mifflin Plan, there were over 4000 licensed boats of four gear types: seiners, trollers, gillnetters, and combination gillnet-troll vessels (Copes 1997). The Mifflin Plan included a program of voluntary retirement through license buy-backs as well as a program of area licensing. Under this area licensing program fishers could only fish in a limited geographic area without purchasing or "stacking" additional licenses. Under this plan, 'combination' boats were banned and those who previously fished both troll and gillnet gear were forced to choose just one unless licenses were 'stacked' (Power 2003). As industrial fishers faced the changes incorporated in the Mifflin Plan, they also faced the continuation of the pilot sale program. As part of what they viewed as survival tactics, industrial fishers adopted many of the strategies that had been so successful for the Aboriginal fishers. Industrial fishers protested in the streets of downtown Vancouver, placed full paged ads in area newspapers and turned to the courts for relief.

In June of 1995, industrial salmon fishers sued the federal government for mismanaging the salmon fishery on which they depended. They alleged that Stó:lō fishers
took the fish that were lost under bungled DFO management (Chilliwack Progress, Wednesday, June 7 1995). In the fall of that same year, industrial fishers strung nets across a downtown Vancouver street and occupied DFO's fourth-floor offices after ripping the doors off the federal fisheries department Pacific region headquarters (Vancouver Sun, Sunday, September 16, 1995). B.C. Survival Coalition executive director Phil Eidsvik explained that “non-Native commercial fishers couldn't sit around any longer and watch Natives scoop sockeye from the Fraser River. Eidsvik also demanded the end to the four-year-old (at that time) Aboriginal fishing strategy that have commercial Native fishers priority over non-Aboriginals (Vancouver Sun, Sunday, September 16, 1995). In an effort to drive home their point regarding the perceived inequity inherent in the AFS, industrial fishers took out a full page ad in the Province, a Vancouver newspaper, to illustrate ‘the facts’ regarding the salmon fishery as they saw them (see Figure 3).

Again in 1998, industrial fishers fished in protest what they called the continuation of a “race based” Aboriginal fishery. At the time the fishers put their nets in the water, the fishery was closed to the industrial sector but open to the Musqueam, Burrard and Tsawwassen Indian bands under the authority of the Aboriginal Communal fishing License Regulations. The industrial fishers were charged with violating federal fisheries regulations. In 2003 their conviction was overturned when Judge Kitchen ruled that the AFS was, among other things, a race based fishery and therefore illegal under the Charter of Rights and Freedoms.

Aboriginal sales occur only if industrial sales occur at the mouth of the river and allocations are capped by a percentage formula of the industrial catch (TAC).
The Facts about the Fraser River Salmon Fishery

The Sto:lo/Musqueam have enjoyed a private commercial fishery since 1992. Other Canadians who attempt to fish in the Sto:lo/Musqueam-only commercial fishery are subject to criminal prosecution by the Department of Fisheries.

When the Fraser River sockeye salmon run was reduced from 16.4 million sockeye in 1994 to 5 million in 1995 the all-Canadian commercial fleet cut their harvest by 9.5 million sockeye.

The Sto:lo/Musqueam refused to reduce their commercial harvest claiming that their commercial fishery receives the same Constitutional protection enjoyed by the native food fishery.

The Sto:lo/Musqueam claim they haven’t had enough fishing time yet they fished 37 days since mid-June, including 17 straight days beginning August 16th.

So far this year, the Sto:lo/Musqueam-only commercial fishery has caught 36% of the total Canadian Fraser River sockeye harvest. They make up less than 0.2% of B.C.’s population.

Some argue that this Sto:lo/Musqueam-only commercial fishery is a result of the Supreme Court of Canada decision in Sparrow. They deceive you.

The courts have ruled that there is no aboriginal right to sell fish but “that is not to say persons of aboriginal ancestry are precluded from taking part, with other Canadians, in the commercial fishery. But they must be subject to the same rules as other Canadians who seek a livelihood from that resource.” (Regina v. Van der Peet)

This judgement was no surprise since over 30% of the participants in the all-Canadian commercial fishery are aboriginal. This includes many Sto:lo and the majority of the Musqueam who also fish in the Sto:lo/Musqueam-only commercial fishery.

One Canada. One Law.
One commercial fishery for all Canadians.
Is that too much to ask?
If there is no industrial fishery at the mouth then there is no in-river Aboriginal commercial sale. The following table reflects the actual catch data for the Stó:lō sockeye fisheries in the years a sale agreement was signed compared with negotiated allotment totals. The data reflect that the fears and concerns of the industrial sector were based more on their specific understanding of entitlement incumbent in the regulations of late 1880s than actual catch data. The data taken from ‘sales’ years include totals available for food, social and ceremonial uses as well.

Table 5. Catch Data For Fraser River Sockeye

<table>
<thead>
<tr>
<th>Year</th>
<th>Aboriginal Catch</th>
<th>Aboriginal Allotment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>227,812</td>
<td>325,000 includes Katzie and Yale</td>
</tr>
<tr>
<td>1993</td>
<td>430,900</td>
<td>620,000 includes Musqueam, Tsawwassen, Burrard &amp; Kwayhquitlam, Katzie, Chehalis, Yale</td>
</tr>
<tr>
<td>1994</td>
<td>358,355</td>
<td>500,000 includes Katzie, Yale, Chehalis</td>
</tr>
<tr>
<td>1995</td>
<td>326,700</td>
<td>500,000 includes Katzie, Yale</td>
</tr>
<tr>
<td>1996</td>
<td>296,631</td>
<td>*350,000 includes Katzie, Yale</td>
</tr>
<tr>
<td>1997</td>
<td>403,716</td>
<td>*350,000 includes Katzie, Yale</td>
</tr>
<tr>
<td>2001</td>
<td>215,126</td>
<td>*350,000 includes Katzie, Yale</td>
</tr>
</tbody>
</table>

Compiled from data from Fisheries & Oceans Canada
*base amount plus share of Canadian TAC

Summary and Discussion

In summary, regulations adopted in 1888 divided the Native fishery into the

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33Totals represent catches for the area above Mission Bridge to Sawmill Creek; ‘traditional’ Stó:lō fishing territory whereas allotments cover area from Port Mann Bridge to Sawmill Creek.
categories of commercial fishery and food fishery, mandated the implementation of a licensing system, outlawed the sale of fish not caught under licenses issued for the tidal areas of the river and stripped Aboriginal peoples from their role as managers of the resource. Stó:lō fishers continued to fish and sell their catch and looked to the courts for relief from the economic disenfranchisement imposed by those early regulations. Through the courts changes in the Aboriginal fishery have come. The implementation of the new Aboriginal Fisheries Strategy has had far reaching effects on the profile on the Native fishery, the most important being the potential for significant changes in the relationship between Native fishers and federal fishing authorities. Many Stó:lō fishers continue to hold out hope for the continuation of a legal sale fishery. Negotiations continue each year for a sale agreement.

However, the courts have not solved all the problems. In fact, on some level they have increased the power of the government to infringe on Aboriginal fisheries in the name of conservation with Sparrow being the basis of the actions for both sides. In 1998 Elders were chased away from their drying racks in the Fraser Canyon by armed fisheries officers when the river was closed to fishing to protect the early Stuart sockeye run (Sqwe’qwels Ye Stó:lō, 1998:12). Placing their trust in the courts, Stó:lō peoples fished in defiance of DFO’s decision to close the river in an effort to provide fish for their Elders. Notes Ken Malloway in a meeting between Stó:lō leaders and DFO at the canyon fishing camp of Grand Chief Archie Charles:

We know Delgamuukw, Sparrow and Guerin - this is not a protest fishery, we are exercising our rights! I’m fishing for the Elders, the Elders haven’t got fish for years! I have to protect our rights, for my mother, and for my boys. What we are doing is modest, we are out to catch fish for our Elders, for drying and canning. We pay every year for "conservation." (Sqwe’qwels Ye Stó:lō, 1998:12)
Ken Malloway and his young sons fished for the elders in the canyon in July when the river was closed due to conservation concerns over the early Stuart sockeye. Ken Malloway was charged for his participation in this fishery. His legal bills would run in the tens of thousands to be paid by Stó:lō Nation. The charges were eventually dropped.

Protests to river closures in the name of conservation would continue throughout the remainder of the 20th century and Cheam fishers would find themselves in actual combat with DFO officers. Members of the Seabird Island community would eventually seek an alternative method of dealing with their own community members charged with fisheries violations. And commercial fishers would find themselves fighting not only DFO for a legally sanctioned right to sell their catch, but other Stó:lō fishers as well. In the following chapters I examine three specific responses to fisheries regulations, shaped by the court rulings of the 1990s and arising from the changes implemented as part of a new Aboriginal Fisheries Strategy. The specific responses on which I focus depict not only a fishery fractured by regulation but also one confounded by pressures from within. Two constants seem to bind the responses: 1) affirmation of tradition as an essential part of each response, and 2) affirmation of the Aboriginal right to fish.
Chapter Four: Warriors on the Water

It's a sunny day in August as I sit by the Fraser River at Cheam Beach. I watch as fishers take their places in the queue - mother and son, father and daughter, employer and employee - launching their 12 to 18 foot boats in roughly 15 minute intervals. One by one the boats return, their occupants calling out the number of fish caught in their nets. This sequence is repeated throughout the day as children play along the water's edge and the adults share their secrets of 'where the best fishing spots' are. This is the life of these people who have lived along this river since ancient times.

Just before 10:00 a.m. on May 13, 2003 Head Band Councilor Sid Douglas was violently accosted by DFO officers. Douglas was pepper sprayed at close range, wrestled to the ground, roughed up and handcuffed by three DFO officers.\textsuperscript{35} In response to this action, some 50 band members surrounded the DFO truck, informed the officers they could leave on foot and also blockaded the railway track [running through the reserve] for the rest of the day. While this recording of the incident is only one side of the story, it very clearly depicts the acrimonious relationship that has existed between Cheam fishers and the federal fisheries authorities for one hundred years.\textsuperscript{36} In the last fifteen years alone, numerous violent incidents involving Cheam fishers and fisheries officers have erupted on and off the river. The level of violence was so high by the end of the summer of 1999, that before fishing began in the summer of 2000, Chief June Quipp made an unprecedented move and negotiated a safety protocol between DFO and the Cheam Band. According to June Quipp, this action was

\textsuperscript{34}Title taken from August 31, 1999 \textit{Chilliwack Progress} front page headline.


\textsuperscript{36}The situation resulted in no charges being laid against Sid Douglas and no actions taken against the fisheries officers involved in the incident (\textit{Chilliwack Times}, November 4, 2003).
taken to prevent the certain loss of life that was sure to follow if the situation continued without intervention. In this chapter I examine the Cheam band’s turbulent history with federal Fisheries authorities. I begin with a brief demographic overview of the Cheam community before discussing Cheam’s particular position regarding “the Aboriginal right to fish” and the role of tradition in the creation of their persona of “Warriors on the Water”. As a part of this discussion, I examine how Cheam’s particular stance regarding the Aboriginal right to fish shapes the band’s overall relationship with other Stó:lō bands.

Community Overview

The name Cheam means “wild strawberry place.” Straddling the Fraser River, the community consists of two reserves - Cheam IR #1 comprising 305.1 hectares and Tseatah IR #2 comprising 157.8 hectares (with only 100 hectares actually above the high water mark). The reserve hectarage is currently under review.

Table 6. Cheam Reserve

<table>
<thead>
<tr>
<th>Name</th>
<th>Location</th>
<th>Hectares</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHEAM NO. 1</td>
<td>NEW WESTMINSTER. DIST. IN SECS. 6&amp;7, TP.3, R. 28, SECS 1&amp;12, TP3, R29, W.6M LFT BANK FRASER RVR &amp; N SHORE CHEAM LAKE</td>
<td>305.1</td>
</tr>
<tr>
<td>TSEATAH NO. 2</td>
<td>NEW WESTMINSTER DIST. IN TP3, R28, W.6M, ON RIGHT BANK OF FRASER RIVER, 2 MILES SOUTH OF AGASSIZ</td>
<td>157.8</td>
</tr>
</tbody>
</table>

Source: Stats Canada First Nation Profile

The most recent census data report a total population of 436 - 180 on reserve, another 25637 residing off reserve (Stats Canada, Registered Population, Oct. 2004). Employment opportunities on the reserve are limited. The majority of those working on

37Of this 256 residing off reserve, 71 reside on other reserves.
the reserve are employed by the administration office, either directly through the office or through the reserve landfill operation.\textsuperscript{38}

Fishing, hunting and various forms of hourly wage labor are relied upon by many as a way of making ends meet, with fishing being the primary variable in that equation. One community member with whom I spoke, Isaac Aleck, described to me how he relied on all of these methods, primarily fishing, to support “his Mrs.” (as he called her) and his two daughters.\textsuperscript{39} However, as was explained to be me by the community members with whom I spoke, fishing is more than a way to put food on the table or earn a living; fishing is a way of life.

The Battle Lines Are Drawn

The Aboriginal right to fish has been hard fought by all the families in the Cheam community, including the often high profile Douglas family. In 1988, while attending the annual general meeting of the Union of BC Indian Chiefs, Cheam band Chief Sam Douglas warned that “Indians may have to resort to direct action if Native claims - including fishing rights - aren’t soon settled in the courts or at the negotiating table” (\textit{Chilliwack Times}, Tuesday, November 22, 1988). While Douglas stressed the

\textsuperscript{38}One band member with whom I spoke noted that most of his community’s people could not maintain regular, long term employment off the reserve.

\textsuperscript{39}One of Isaac Aleck’s jobs is as a fish monitor, collecting catch data for reporting to DFO as to the number of salmon taken during each opening. During the summers of 2002 and 2003, Isaac Aleck ‘monitored’ Cheam beach catches. But in the summer of 2004 a sales agreement had been negotiated and signed between DFO and Stó:lō fishers so he worked a landing site designated for collecting catch numbers as mandated in the sales agreement. Interestingly enough, Cheam was not a signatory band to that agreement, therefore Isaac Aleck and other members of the Cheam community were not able to participate in the sales fishery for which he was counting salmon.
point that support from the public through peaceful protest was the desired outcome, he noted that "when armed fisheries officers come down in force, then that's when it gets militant" (Chilliwack Times, Tuesday, November 22, 1988). Douglas' comments came two years after a violent incident at Gill Bay down river from the Cheam Reserve. The Gill Bay incident marked the first violent exchange between DFO and Cheam fishers. This incident would set the tone for the relationship between the Cheam Band and federal fisheries authorities for the next two decades.

Prior to the conflict at Gill Bay Cheam fishers, for the most part, had observed the openings and closings established by DFO. In 1986 violence erupted when Sam Douglas and other members of the Cheam Band decided they no longer wanted to be last in line behind the commercial and sports fishers. As described to me by Corky Douglas, openings for the Indian Food Fishery (IFF) would be from Thursday to Sunday each week, however, these openings would come after the commercial sector had fished those same stocks earlier in the week leaving few fish in the river for most of the IFF opening. Meetings with Fisheries officials had done little to alter this pattern. Sam Douglas and others from the community decided to stage a protest against a one-day closure of the fishery. More than a dozen people were charged with fishing during a closed time and obstructing a peace officer. Sam Douglas was charged and convicted of assaulting a Fisheries officer with a boat oar. Douglas' criminal conviction was under appeal when, in a ruling regarding a civil suit filed by the Fisheries officer, the judge found Douglas was justified when he struck the fisheries officer (Vancouver Sun, Thursday, July 6, 1989).

As noted in the Vancouver Sun article, the 1986 melee erupted after said
fisheries officer arrived at the scene of the protest fishery with 25 armed fisheries officers who proceeded to confiscate nets set by Douglas and members of his family, who were protesting the closure. It was revealed in the proceedings of the civil suit, that Douglas was justified in his use of force as the fisheries officer had swung an oar 12 times in the direction of the Douglas boat, until Sam Jr. was struck in the head and fell backwards. The civil suit also revealed that fisheries officers arrived on the scene armed with knives and .357 magnum revolvers, traveling in seven vessels and a helicopter. The battle erupted on the water after the fisheries officers were approached by an equal number of Stó:lō who had left their knives and fish clubs on the shore before putting out in their boats.

The Gill Bay incident was one of many confrontations that occurred between the Cheam community and fisheries authorities. In the coming years, the area newspapers would be riddled with reports of fishing disputes involving the Cheam band. News headlines of blockades and photographs camouflaged-clad Natives would contribute to Cheam’s identity as “warriors on the water” and local newspapers would be rife with articles describing the often extremely volatile relationship that existed between the federal government and the Cheam band. As a result of the Gill Bay incident in 1986, two federal Fisheries officers were charged with common assault and a helicopter pilot was charged with mischief in connection with altercations involving Native Indian food fishermen. The two officers were charged with assaulting Chief Clarence Pennier (from Scowlitz) and Cheam band members Sam Douglas and Albert Chester Johnson. The pilot was charged with mischief in a “life threatening situation.” Fisheries officers charged 18 Indians with a total of 54 offenses, including assault and illegal fishing in
connection with the protest fishery (*Vancouver Sun*, April 7, 1987). By May of 1989, the possibility of river violence was again imminent when Fisheries authorities announced the river would not open to Indian fishing at least three days each week during the months of June and July, the same reason that prompted the violence at Gill Bay.

In an interview with a reporter from *The Progress*, Cheam Chief Sam Douglas expressed his concern that there would be physical confrontation between Natives and Federal Fisheries officers if the Natives were not allowed to fish three days a week in late June and July when the early Stuart sockeye are running. Fisheries had indicated that, based on early estimates, the Indian Food Fishery (IFF) would be open just one day a week through June 25, and then two days a week after that. The Stó:lō Nation Society and the Stó:lō Tribal Council notified DFO in writing, saying that Natives would voluntarily fish only three days each week in order to preserve salmon stocks. Recognizing the need for conservation, Sam Douglas indicated Cheam fishers would agree to a self-imposed four-day-a-week closure even though they did not recognize Fisheries’ authority over Native fishing practices (*The Progress*, May 31, 1989). Fisheries was put on notice that, Stó:lō fisherman would ignore IFF regulations if they restricted them to just two days’ fishing. By 1991, the situation had escalated to the point of ‘nearly no return’ when gun shots rang out over the water.

In July of 1991, “shots were fired in a confrontation between federal fisheries officers and Cheam Band members as Natives claim more fishing rights” (*The Progress*, July 24, 1991). This is the first line in the article chronicling yet another violent incident between Cheam fishers and fisheries authorities. As noted in the
article, two Natives in a canoe were discovered fishing illegally by a night-time fisheries patrol on the Fraser River on July 17. A third Native on shore fired a rifle in the direction of the canoe even though another officer on land had ordered him to drop the weapon. All three were charged with illegal fishing and the Native on shore was also charged in connection with discharging a fire arm. It is also noted in the article that the Fisheries officer on the shore also fired a shot to the side and into the water. The shot fired from the Native on shore went over the heads of the officers in the patrol boat who “instinctively” drew their revolvers. Yet again, the altercation stemmed from a closure of the IFF to conserve the early Stuart sockeye run. And again, Cheam band Chief Sam Douglas, put the federal government on notice that Cheam fishers (as well as all Stó:lō fishers) were going to fish despite the closure of the Native fishery. As noted by Sam Douglas, “Indians have a constitutional right to fish - instead of the “privilege” to fish that others gain by paying for a license. Sam Douglas stated, “We’ll go fishing when the fish are there, instead of when the DFO dictates” (The Progress, July 24, 1991). Douglas’ press statement reflected Cheam’s standing that restrictions and changes to license conditions were to be negotiated rather than legislated. This was a sentiment recounted to me by his sister, June Quipp, when she told me that “we were not part of the process that went into the decision making that resulted in the fisheries regulations imposed on First Nations peoples.”

In 1993 tensions escalated dramatically along the stretch of the Fraser running through the Cheam Reserve when a blockade erected by the Cheam Band brought Canadian National (CN) railway freight transport to a standstill. Cheam band members blocked the railway with pickup trucks after a weekend of confrontations with fisheries
enforcement officers that ended with twenty-two Native nets being seized and charges being considered against twelve people. CN was awarded a court injunction to have the blockade removed, however, as stated by Sid Douglas, brother of Cheam Chief, Sam Douglas, one of the blockade organizers, “we are going to stay until our leaders tell us otherwise.” Once again, the action was in direct reaction to Fisheries' decision to close the river to Native fishing, albeit this time in the face of an agreed upon allocation as part of an agreement negotiated between Stó:lō fishers and the federal government.

At the center of the Cheam protest was DFO’s decision to close the river to Native fishing before Indian fishers reached their negotiated allotment of 620,000 sockeye. In the summer of 1993, Cheam as well as other Stó:lō Bands, were fishing under a Pilot Sale arrangement negotiated as part of the newly implemented Aboriginal Fisheries Strategy. Chief Sam Douglas noted that the 620,000 allocation was imposed on the Stó:lō (Vancouver Sun, August 31, 1993). The problem emerged when Pat Chamut, Pacific region director-general for DFO, made the decision to keep the river closed during the previous weekend, saying that the allocation would be filled once other Stó:lō fisheries were taken into account. DFO contended that a 48-hour opening, which the Cheam fishers wanted, would have added up to 100,000 salmon to the Aboriginal count, pushing the number far over the allocation (Vancouver Sun, August 31, 1993). While fisheries authorities indicated that the protest came from Cheam alone, Sam Douglas stated that all Stó:lō bands were upset over salmon allocations. Fisheries and Oceans would find the latter to be true when other Stó:lō leaders spoke out in support of Cheam’s action. George Campo, president of Stó:lō Nation Canada,
publicly backed Sam Douglas and the Cheam band (Vancouver Sun for September 1, 1993). In the end, 10 bands would show support for Cheam's action, an action that Sam Douglas stated would only end if the deputy fisheries minister would come to the reserve for talks (Vancouver Sun, September 1, 1993). The situation would become markedly worse before a resolution could be achieved.

Stó:lō Indian leaders met overnight to decide if the barricades on the CN main line to Vancouver were to come down or if the track was to be ripped up before a court injunction could be served. A bulldozer was positioned, ready to tear out the tracks passing through the reserve; a decision that was to be up to all Stó:lō bands, not just Cheam. (Vancouver Sun, September 2, 1993). By Saturday, September 4, 1993, the RCMP were poised to move in to enforce a previous injunction against the Natives (Chilliwack Times, September 4, 1993). The blockade remained in place for five days, ending only after DFO agreed to the demands of Cheam Band. 40

The possibility of violence remained high as Cheam fishers continued to

40In the course of my conversations I was told that the bulldozer upon which Sam Douglas was perched was incapable of actually digging up the railway tracks; it was out of gas. Whether or not the gas tank of the bulldozer was full or empty, one fact seems certain. Cheam fishers were keenly aware of their ability to disrupt the larger economy through the blockade of the railway. In his article entitled, "Shut the Province Down": First Nations Blockades in British Columbia, 1984-1995," Nicholas Blomely notes that blockades have been an effective tool used by First Nations across British Columbia for a number of years. Blomely points out that major transport routes have also been the target of blockades as well as access routes to resorts and parks. Blomley discusses the vulnerability of the provincial transport system, noting that road and rail lines frequently pass through reserves, which were the usual locations for many of the blockades. Additionally, the vulnerability of the transport system is further aggravated by the provincial topography - the rugged terrain ensures that valley bottoms become transport corridors - again placing major transportation corridors in close proximity to Native reserves as reserves are also often located in valleys, near rivers (1996:18-19).
exercise their right to fish over the next few years. Fishing continued regardless of closures and charges were laid. In July of 1998, Cheam fishers defied a federal ban and fished in protest. Chester Douglas, along with his wife and son were spotted by fisheries officers flying over head in a helicopter. As described by Chester Douglas in the *Chilliwack Progress*, “First they brought out a helicopter to shine its lights on us, and then nine fisheries officers came and gave us a fine” (Sunday, July 12, 1998). An agreement to remove their nets was reached after band members met with Fisheries officers. At the meeting Cheam fishers made clear that they expected the ban to be enforced equally against sports fishermen. Quoting band member Isaac Aleck, “…As long as the sportsmen are off the river from the mouth up, then we will abide by it. As long as the sportsmen are out, we’ll be out” (*The Province*, July 12, 1998). This sentiment was expressed over and over again among the Cheam fishers with whom I spoke. Nearly every conversation I had with fishers contained the phrase, “If the sporties are out; we’ll be out.” The prevailing sentiment among Cheam fishers is that, if there is a legitimate conservation concern, then the sports fishery would not be open. In regard to that sentiment, DFO contends that the pressure on the early Stuart run from the rods and reels of the sports fishery are insignificant when compared to the nets of the Cheam fishers.

As the summer of 1999 blended into fall, violence again erupted along the Fraser at Cheam. And again, this violence stemmed from river closures in the name of conservation. As they had done the previous year, Fisheries and Oceans banned fishing on the Fraser in the early summer months to protect the critical Stuart River sockeye run. According to the ruling in *Sparrow* concerns over conservation are the
only justifications for closing the river to Aboriginal fishers. However, during the beginning of the 1999 sockeye season, Aboriginal fishers were forced off the river while sports fishers were allowed to continuing fishing for chinook salmon, releasing any sockeye inadvertently hooked. Many fishers, in particular those at Cheam, believed DFO's was acting in the same arbitrary fashion they had in the pre-Sparrow years. They felt that DFO was using the language of Sparrow to re-prioritize the fishery in that sports fishers were required to release any inadvertently caught sockeye, therefore they were not deemed to be contributing adversely to the conservation problem. Cheam fishers had a different take on the situation based on their own observations of the sports fishery. Cheam fishers who had defied a similar fishing ban the previous year, (for the same reasons) set their gill nets with the support of the Union of B.C. Indian Chiefs and about 100 others reportedly from other bands around the province (Chilliwack Progress, Tuesday, July 13, 1999).

Fisheries officers, trying to enforce the river closure, acted more aggressively, traveling the river at night cutting and confiscating 'illegal' nets (see figure 4). Tensions continued to mount as fisheries officers, wearing Flak jackets and carrying automatic weapons descended on fishermen at their nets - usually elders women and children - seeking out, what June Quipp called the weakest link (Chilliwack Progress, Tuesday, August 31, 1999). As Quipp reported to the press, "...They have pushed us, grabbed our kids, rammed our boats and always threatened with some kind of violence" (Chilliwack Progress, Tuesday, August 31, 1999). By the end of the summer, signs of a possible full-fledged war were clearly visible. Fisheries officers found themselves face to face with an army of young people from around British Columbia and Alberta,
Figure 4. "Get Away From My Net" Confrontation at Cheam Beach
Photo by Rick Collins, Chilliwack Progress, September 7, 1999
standing firm on the beach.

Referring to themselves as a security force, this group of young people belonging to the Native Youth Movement arrived at Cheam to lend support for Cheam’s Aboriginal right to fish. Described to the press by Fisheries and Oceans as “an armed and dangerous menace on the water,” they did indeed look the part of the warrior. Dressed in camouflage fatigues and equipped with radios, night-vision goggles, maps, flashlights, air horns, whistles and hand drawn plans, this group of young people stood watch over the beach.  

By the end of the weekend, ten fishermen would be under investigation, eight nets and one hundred and ninety sockeye seized (Chilliwack Progress, Tuesday, August 31, 1999). By Fall, both sides would demand that charges be laid (Chilliwack Progress, Tuesday, September 28, 1999) and both sides would come to the conclusion that a change in protocol was essential. The summer of 2000 found Cheam fishers and Fisheries officers operating under a new system.

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Some members of the “security force” were members of the Cheam Band, but for the most part, the group was made up of young Aboriginal men and women from outside the community. Labeled criminals, terrorists and thugs by Fisheries and Oceans officials, this group was actually composed of educated individuals - most university students at the time - highly trained in a variety of military techniques. They considered themselves freedom fighters. Although they admitted their military dress was meant to be intimidating, their role was strictly defensive (Chilliwack Progress, Tuesday, August 31, 1999).

June Quipp remarked to me on the how her approach to fisheries struggles differed from that of her brother Sam. She explained to me that Sam Douglas had not been happy with the presence of the ‘security force’ on the reserve. Others told me that Sam Douglas preferred to place himself in the direct line of fire when dealing with fisheries officers, rather than putting others in that spot. While not above relying on forceful forms of direct action, Sam Douglas also relied on more subtle ways of exercising the varying forms of power his community possessed. A rather amusing anecdote was relayed to me by Ernie Crey. According to Ernie Crey, tempers began to flair during a meeting between fishers and DFO. Ernie Crey, becoming caught up in the heat of the moment, joined in with others who had raised their voices at the
A Cease Fire of Sorts

In an effort to head off the injury or loss of life that was certain to occur in the upcoming summer sockeye fishery, (then) Chief June Quipp negotiated a safety protocol with Fisheries and Oceans. Subsequently renegotiated each year, the safety protocol was designed to define the principles and values that informed the relationship between the Cheam First Nation and the Department of Fisheries and Oceans (DFO). 43

fisheries official. Notes Ernie Crey, Sam Douglas tapped him under the table to get his attention. Once outside after the meeting Sam Douglas rather loudly and colorfully told Ernie Crey he would be fired if he did that again. Sam Douglas knew that Ernie Crey had worked for DFO prior to taking up employment in the Stó:lō fisheries program. He knew that DFO staff was comfortable dealing with Ernie Crey. Ernie Crey had never been charged with so-called fisheries infractions. In addition, Ernie Crey was (at that time) a member of the Pacific Salmon Commission’s Fraser Panel (the panel that determines fisheries’ openings). Sam Douglas wanted Ernie Crey to keep the lines of communication open to DFO. He wanted Ernie Crey to remain the diplomat; Ernie Crey was to leave the hard-nosed bargaining to the Chiefs. Notes Ernie Crey, “while many may not have wanted to believe it, Sam Douglas had a great deal of respect for nearly everyone he came in contact with, including negotiators for the DFO. Sam Douglas liked people. However he knew that sometimes he needed to be forceful in his dealings with DFO in order to help the Stó:lō gain a larger share of the fishery.” Sadly, Sam Douglas was lost in a fishing accident in the river off the Cheam reserve the summer of 2001 before I had an opportunity to speak with him. His sister June Quipp, Ernie Crey and Doug Kelly very generously shared their ‘Sam stories’ with me.

43 The protocol agreement negotiated in 2003 after the May 13 incident in which Sid Douglas as pepper sprayed and arrested, is the most limiting to date. The 2003 agreement applied to all enforcement activities by fisheries on land or water. The agreement limited water-based enforcement to one boat with no more than three or four officers on board. Land based actions were limited to two vehicles with no more than two officers. The agreement required that any fisheries officers having business on the reserve report to the head councillor before going to the beach. Cheam leaders were seeking to prevent any future situations such as the May 13 incident involving Sid Douglas. They were also seeking to prevent many of the incidents that occurred on the water during the extremely volatile summer of 1999. During one of our conversations, June Quipp described the events of 1999, as Cheam boats were rammed by DFO vessels. June Quipp talked of the eerie feeling she experienced as she looked into the eyes of one of the officers aboard the DFO vessel as it approached her boat at full speed. According to June Quipp, the potential for the loss of life was very real that day.
Listed first and foremost was safety for Cheam First Nations people, DFO and Stó:lō Nation Fisheries personnel. Additionally, a code of conduct for operations was spelled out in the agreement. A number of specific concerns were addressed in that code of conduct, some of those concerns included:

- safe operation of DFO vessels and helicopters
- identification of spokesperson for each side
- specific procedure for dealing with unattended nets
- need for courteous and respectful behavior on the part of each side
- notification of fisheries officers' presence prior to contact with Cheam fishers

This agreement was heralded for its success when Fisheries and Oceans Canada Director Pablo Sobrino, speaking at a conflict resolution workshop, credited Chief Quipp for the peace on the river that came in the summer of 2000, saying "She took the risk of entering into a formal agreement with federal fisheries to avoid confrontation" (Chilliwack Progress, Tuesday, February 20, 2001). Within three years the agreement would be touted as a "special enforcement deal" by Bill Otway, president of the Sportsfishing Alliance (Chilliwack Times, June 20, 2003).

Non-Aboriginal fishing groups have maintained that the safety protocol has inhibited DFO's ability to effectively manage the resource. Sport fishing leaders contend that the lack of DFO officers on the beach at Cheam allowed for the so-called lawlessness prevalent in the Cheam fishery. In an interview granted to the Chilliwack Progress, Bill Otway, of the Sports Fishing Defense Alliance, accused Fisheries Minister Robert Thibault of being complicit in allowing an 'illegal' fishery to continue,

"At the time of the confrontation between Fisheries officers and Sid Douglas, some question arose as to whether the safety agreement signed the in 2002 had carried over until a new agreement had been signed. The officers that confronted Sid Douglas had not checked in at the band office before attempting to come down to the beach; prompting Sid Douglas' reaction."
alleging that Cheam gillnets had been in the water for 29 days as of date of his letter to
the Solicitor General (July 25, 2003). Otway and his group also accused Cheam
fishers of stockpiling weapons along the beach. In his letter to the Solicitor General,
Otway wanted to make the [solicitor general’s] office aware of the type and quantity of
firearms being stockpiled on the reserve (Chilliwack Progress, July 25, 2003). Before it
was over, Otway and his group would demand that the federal government bring in the
army to deal with the situation that he contended existed on the reserve. In the end,
the RCMP and DFO rejected Otway’s charges. I spent many weekends at Cheam
beach during the summers of 2002 and 2003; I saw no evidence of a weapons
stockpile or of a fishery gone wild. Commenting on the absurdity of Otway’s charges,
some Cheam fishers joked with me of having magazines at home with pictures of guns
in them.

Interestingly enough, some Stó:lō fishers have made similar comments
regarding DFO’s ability to effectively manage the resource when access to the beach at
Cheam is essentially denied. Pointing out that the safety protocol signed between
Stó:lō Nation and DFO (coming a year or two after Cheam’s) does not keep DFO
officers away from the fishing grounds as does Cheam’s, it was posited that Cheam’s
agreement actually contributes to the acrimony on the river rather than alleviating it. As
it was explained to me, Stó:lō Nation’s agreement worked to bring DFO into a dialogue
of resource co-management rather than relegating them to the side lines in as much as
that situation can actually exist.

Given that some legitimacy may exist in regards to the limits on resource
management inherent in the Cheam safety protocol, it clearly has not hampered the
government's ability to observe fishers and lay charges. Both DFO officials and members of the Cheam community told me that the number of charges laid each year for so-called illegal fishing have increased since the implementation of the safety protocol. According to June Quipp, the number of charges have increased dramatically. Notes band member Ernie Crey, hundreds of cases from the 2000 and 2001 fishing season are still pending. Is this the cost of peace? Was Cheam's ability to negotiate a peace on the river via their safety protocol a result of direct action on the part of Cheam warriors? On what have the members of the Cheam community relied when considering their aggressive stance regarding their Aboriginal right to fish? Have these warriors on the water gained any measure of true autonomy on the water? Many questions remain.

Life Along the River - the Practice of a Tradition

"See that area over there?" asks Robert Douglas gesturing toward a spot upriver. "My grandfather fished there, my father fished there and now me and my son, we fish there." "It doesn't matter what they decide," says Mr. Douglas. "This is our life. I have to feed my family. As long as there's fish in this river, my family won't go hungry" says Ronnie Douglas, Jr. (Chilliwack Progress, July 12, 1998)

As I sat along the river during the summers of 2002 and 2003, only faint evidence of the "wars" of the past years was visible. Gone were the fox holes and camouflaged soldiers. What remained was the matter-of-fact manner in which the community continued its way of life, the way of life reflected in Ronnie Douglas' 1998 statement. The importance of fishing as a part of that way of life was clearly evident, not only by the fact that families lined the beach to fish, but also by the emphasis placed on community responsibility and the transference of knowledge. Along the beach some families camped overnight as they fished, others returning to their homes
across the road, enjoying picnic style mid-day meals while along the river. Children were everywhere on the beach; playing at the water’s edge or accompanying their parent(s) in the boats. As explained to me in my interview with Corky Douglas, “That’s how we pass the knowledge on, we take our kids out and show them how to fish. If you look at our community, we all bring our kids down.”

Cheam people share their history so that future generations will know that history. As we talked, Corky Douglas shared bits of knowledge that had been taught to him growing up, as did his sister June Quipp when I talked with her. Isaac Aleck shared with me important information about the landscape that his father had taught him. On one of my visits to the beach, Isaac Aleck took me out on the water and showed me important spots along the river; one being the dry rack spot of his great-great grandmother. According to Isaac Aleck, she had the only dry rack outside of the canyon; knowledge of one’s past being an essential part of Stó:lō tradition. Isaac Aleck’s great-great grandmother’s family name - Ollalie - can be found in the Stó:lō Historical Atlas, listed on the 1905 map of the Stó:lō Canyon Fishery (2001:59).

The ‘passing of knowledge’ is also evident in community projects. Through conversations with members of the Cheam community, I was told of the communal canning project that takes place every summer. Fish are donated by Cheam fishermen and for two weeks each summer, salmon is canned around the clock. One Cheam elder who oversees the project each year, told me that the practice began in 1998 and still continues. Initially the project just served members of the Cheam community-elders or those who had lost fishing sites, however it has since grown to include all Stó:lō elders. According to June Quipp, the summer canning project was to provide
salmon to any elder who wants to bring a jar so that those who can't fish, can obtain salmon. An elder from the Soowahlie band spoke to me of her participation in the canning project, "Elders would show up and drop off their jars to be filled." Community members who do not fish, help with the canning. During the summer of 2002, 600 dozen jars of salmon were produced. Between three and four thousand people participated in the two week canning project, with twelve canners going around the clock. According to the elder, "Jars - half- pints, pints quarts - vanished from the store shelves all over the area. There wasn't a jar left to sell."

As we talked about the canning project, this elder also talked with me about her family and fishing. She talked of how, way back, her parents went up to Yale to fish. She also talked of how changes along the river (some natural, some man made) and population increases have contributed to the loss of fishing sites; making the canning project so important. She also talked of how Stó:lō people had always sold their fish or exchanged them for other necessities. According to the Cheam elder, fish is a main source of food for Stó:lō people. Commenting on the regulations that have continued to limit access to that essential source of food, she simply noted, "Some folks may go with the way it is. Others take a stand." The choice of the Cheam community is readily apparent.

Managing Their Own Fishery

As a part of their decision to take a stand, Cheam fishers formed a fishing committee in 1999 of eight to ten members to decide when and for how long Cheam fishers would fish. Prior to fishing each year, the chief and council meet to outline the fishing plan for the coming year, posting notices to band members advising them of the
dates and times of openings. This is the same process that takes place each year within the larger Stó:lô Nation via the fisheries committee composed of representatives of the various Stó:lô bands. However, the decisions made by the Cheam community often differ dramatically from those of the larger Stó:lô Nation in that the “Nation” generally adheres to conservation restrictions regarding the Early Stuart run, seeking only dispensation for a limited number of ‘pieces’ for the canyon dry rack fishers. According to Corkey Douglas, Cheam’s committee examines the data from the Pacific Salmon Commission’s early forecast of salmon runs to plan how Cheam will conduct their fishery. The committee decides if they are going to accept DFO’s run forecasts, then setting the times and dates of their fishery based on their examination of the data. After setting their own fishing dates and times, Cheam sends a letter to DFO outlining their fishing plan.

Cheam’s policy is based on the fact they have never given up or negotiated away their fishing rights. Members of the Cheam community believe that they have priority over any salmon catches, relying on the Sparrow decision to support their claim. In my many conversations with community members, it was made clear to me that whether or not the individual with whom I was speaking had voted for the particular members of council currently seated, they did demonstrate support for the decisions of that chief and council in regard to fishing. As described by Corky Douglas, “Here [at Cheam] it is a whole community effort. We support what chief and council does and they support what we do. It’s kind of a mutual thing between chief and council and the membership on the fishery issue.” Based on my conversations with fishers and my observations of fishing in action, this community cohesiveness was true for the most
part. At times there was some disagreement over how the fishery would be conducted. However, in regards to dealing with the public, the unified front remains intact.

While the Aboriginal right to fish remains a constant for both Cheam and Stó:lō Nation, the decisions regarding the practice of that right, more regularly than not, differ from those of the larger Stó:lō Nation fishery committee. Cheam’s aggressive approach to exercising their Aboriginal right to fish comes after decades of allowing fisheries authorities to dictate when and how they would fish. As noted earlier, beginning in 1986, Cheam fishers decided to protest fisheries attempts to close the river to conserve threatened sockeye runs. Following the Sparrow ruling in 1990, came the implementation of a new Aboriginal Fisheries Strategy, allowing for the sale of in-river caught salmon for the first time in over 100 years (a right the Cheam and Stó:lō maintain was never relinquished). Beginning in 1992, “sales agreements” establishing fisheries allotments were negotiated. Sam Douglas, who had led the protests in 1986 and 1993, was one of the principle individuals negotiating the early agreements and establishing the newly created Aboriginal management authority. However after four years of fishing under the sales agreements, Cheam fishers decided that the terms became so restrictive that fishers were limited to a few days of fishing per year, because of the increasing limits on their fishery. Their response was to pull out of the agreement process. From the time that Cheam pulled out, Stó:lō Nation and the DFO were unable to reach an agreement in all but one of the years from 1998 to 2002 in part because of DFO’s insistence that Cheam sign. As explained to me by one DFO official, “if Cheam does not sign, there will be no [sale] agreement. We’ve proceeded in the past without Cheam’s signature, but not any more.” Consequently, the decisions on the
part of DFO and Cheam prevented the legal sale of salmon by Stó:lō fishers. When interviewed, Corkey Douglas made mention of the fact that Cheam’s refusal to sign the sale agreements did indeed prevent a ‘sales’ fishery from taking place.

Cheam’s position in regards to how the salmon fishery should be conducted is set out in the Reasons of Judgement as part provincial court case *R. v. Arthur Aleck, et al (2000] BCPC 0177)*. The case of *R. v. Aleck* involved the arrest of seventeen members of the Cheam band for fishing within their traditional territory on the Fraser during a time when that fishery had been closed by DFO. Coming several years after the priorities established under *Sparrow* and the new AFS, the case clearly reflects Cheam’s disdain over the post-Sparrow management of the salmon fishery. Cheam fishers were continuing to fish in accordance with their own management scheme. Noted in the court documents is the fact that the Cheam band had not agreed to a fishing plan since 1996 and that the Cheam Band disagreed with DFO’s definition of conservation - one based on stock rebuilding as required under the Pacific Salmon Commission, and one that Cheam contends was developed solely to secure future industrial fishing opportunities at the expense of the Aboriginal fishery. This notion is held firmly by the Cheam community and by one band member in particular. Isaac Aleck quite proudly relayed to me one afternoon that as a part of his defense regarding fishing charges laid against him he was able to get the Fisheries official to admit, as a part of his testimony, that the government did indeed manage the fishery ‘to the industrial sector.’ Isaac Aleck did not tell me the name of the individual from whom he
As was spelled out in this case, Cheam did not accept the licensing procedure particularly as regards the dry rack fishery. Cheam fishers with access to canyon fishing sites informed me that they did not feel they needed a license to fish the early Stuarts for their dry racks. Their family connections to the dry rack sites were all that was necessary for them to ‘fish the canyon.’ In response to comments found in court documents on how Cheam should conduct their fishery, Cheam fishers voiced a reluctance to adopt alternative selective fishing methods such as beach seines and fish traps (one or two being allowed per Band). Under this plan, the number of fishers would be limited. This was of serious concern to some Cheam fishers with whom I spoke. Isaac Aleck spoke of his concern regarding the concentration of the fishery into the hands of only one or two families should DFO’s selective, alternative methods be adopted. His comments did not arise from concerns regarding any particular family, but rather they reflected a concern over any family’s potential loss of access to the fishery. Additionally, Cheam fishers stressed the point that the methods suggested by DFO were not traditional fishing methods of the Cheam and they were concerned about their ability to catch fish and the potential dangers such methods may bring to them (R. v. Aleck, 2000:5).

Discussion

Cheam fishers, will tell you they are following tradition when exercising their Aboriginal right to fish. While tradition may appear no deeper than, “we fish as we did

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45 Isaac Aleck was acting as his own counsel in that case. Isaac Aleck told me he did quite often act as his own counsel because he did not feel the lawyers pressed strongly enough to get such statements from DFO officials.
in the past,” as reflected in Robert Douglas’s quote “my grandfather fished there, my father fished there and now me and my son fish there,” for the Cheam fishers, tradition has become a means of justifying the present through remembering the past. As Mauzé notes, cultural facts (or practices) reified in ethnographic monographs not only refer to the past; they also become the foundation for present as well as future identities (1997:9). Cheam’s on-going and high profile battle with the government regarding the Aboriginal right to fish relied on a past that, at times, included actual warfare; a past that established their identity as “Warriors on the Water.” But as Sider notes, these cultural facts or practices (and the subsequent identities that emerge) cannot be viewed in isolation of history or struggles with outside forces; often forming the basis of internal antagonisms when set in opposition to continuity (1993, 2003). With regard to Cheam, fishing as a traditional practice has been filtered through over 100 years of regulation and recent court rulings that have upheld the constitutionality of Aboriginal rights as well as establishing a priority of those rights over others, albeit within strict limits. This ‘filtering’ has resulted in a complex interconnection of past and present in addition to fueling equally complex internal antagonisms. Cheam fishers will say that not only do they have an Aboriginal right to fish because their ancestors have fished the Fraser long before the coming of non-Natives to the region, but also because the Supreme Court of Canada and the Canadian Constitution ‘says’ that Aboriginal right exists. They will also say that their protection of that right must be vigilantly guarded, some saying, at all costs.

This notion of interconnectedness of past and present is examined by Sider in his discussion of the complex connections and oppositions between tradition and
continuity; particularly as regards internal antagonisms. Notes Sider, it is necessary to look closely at the forms of social relations, particularly among dominated peoples, to which the word “tradition” refers; relations he maintains that often turn out to express claims for autonomy or partial autonomy in the midst of poverty and powerlessness much more than they express continuity with a real or imagined past (1993:11).

Cheam’s position rests not only on the fact that Cheam fishers have been fishing Fraser stocks over millennia, but also on the Thursday through Sunday food fishing schedules allocated by DFO in the 1950s, 1960s and 1970s, as well as on legislative and court actions occurring in the last 22 years; 1982 Constitution Act and the 1990 Sparrow decision. This approach taken by Cheam reflects the dynamism of tradition as well as the antagonisms between past and present, that are, as notes Sider, often taking shape not in dramatic political struggles and incipient confrontations, but ordinary moments of daily life such as fishing Thursday through Sunday as was the case for much of the post regulation era. It was the repeated disruption of this Thursday through Sunday schedule that, in 1986, prompted what could be considered the most violent moments on the river.

For Cheam the Aboriginal right to fish is manifest not only in the exercise of fishing, but in determining when that exercise may take place set within a framework of this ‘filtered tradition.’ It also means positioning their manner of managing the fishery above DFO’s management plan. For decades Cheam (Stó:lō) fishers were held to Fisheries and Oceans conservation regulations designed to rebuild stocks for the industrial fishery, adhering to closures such as the closure of the IFF for nearly the entire month of July in 1967. However in 1986, Cheam fishers decided "not to put up
with it anymore, the way they determine conservation.” As Corky Douglas described to me, “Regarding stocks bound for the upper tributaries of the Fraser River, if any fishery is allowed ahead of us - industrial, sport or other First Nation - then it shows us there is no conservation concern.” In effect, Cheam has attempted to manage the resource, relying on a definition of conservation consistent with practices of the past rather than one designed to serve the industrial fishing sector.

Members of the community with whom I spoke indicated that through their hard fought battles they believed they had gained some measure of autonomy on the river. The safety protocol has brought peace to the reserve, however at the cost of increases in the number of charges laid. In the years since 1996, Cheam has refused to sign sales agreements negotiated between DFO and Stó:lo Nation.46 A sale agreement was reached in 2001 without Cheam’s participation. I was told by Chief Quipp in January of 2003 that Cheam had not taken a firm stand of automatically refusing to sign the agreements.

In what would appear to be breaking from their position of allowing Fisheries and Oceans any say in when they may fish, Cheam has negotiated it own agreement with Fisheries and Oceans regarding fishing dates and times. While not providing the for the legal sale of salmon, the agreement did offer some protection from prosecution and the claims of illegal fishing leveled by fishers in both the industrial and sports sectors. Cheam’s agreement has also rendered allowable established fishing practices, such as drifting, that had been outlawed over a century ago. As was spelled out in the

46According to June Quipp, Stó:lō fishers, including Cheam fishers, were allowed only 16 fishing days in the 1992 sockeye season fishing under the first sale agreement.
agreement Cheam negotiated this past summer, drifting is allowed in the established fishing areas of the Cheam. Again, the agreement offers protection from sports fishers who protested this summer, accusing Cheam fishers of utilizing outlawed technologies. The ‘legal’ ability to drift in the waters off the Cheam reserve has been a particularly volatile issue as high concentrations of sports fishing sites are located in the area surrounding Cheam Beach. Some Cheam fishers have taken issue with the agreement, questioning the ability of the plan to provide adequate fishing opportunities due to the high concentration of sports fishers along the river bars off Cheam Beach. I was sitting along the beach at Cheam when Chief Sid Douglas gave Isaac Aleck his copy of the new agreement which had just been signed. After examining the document, Isaac Aleck expressed his concern over the limited fishing opportunities that would result from the following this plan. Isaac Aleck remarked to Lester Ned's son who had just walked up to chat, “Hey, tell your uncle (Chief Sid Douglas) these times aren't going to work unless the sporties are moved out of the area.” Additionally, this agreement may have further distanced the Cheam community from the remaining Stó:lō communities. Cheam's agreement provided for fishing days and times not open to other Stó:lō bands.47

Cheam’s often called ‘renegade’ activity is a double edged sword: advancing the right of all Stó:lō fishers while simultaneously limiting opportunities for the legal sale of in river caught salmon by those same Stó:lō fishers. This was evident in 1998 when

47However, members of the remaining Stó:lō communities who have family ties with the Cheam community have fished under Cheam's new agreement. Lester Ned’s son, Henry Ned is a regular face at Cheam Beach, his mother being a member of the Douglas family.
after only 48 hours the river was closed to Native fishing but not to sports fishing. Fishers from Cheam fished to provide food for elders. However Cheam's actions were seen as protest fishery by many, including the canyon wind dry fishers who were calling for the arrest of those fishing during the closure. Compounding the problem was the fact that the so-called illegal fishery forced greater concerns over the run. The same fishers who have rallied to demonstrate support for Cheam fishers in times of confrontation have at other times railed against the actions taken by Cheam fishers that resulted in confrontation. Cheam fishers have readily accepted the label of 'warriors on the water' and the corresponding role as protectors of a way-of-life for all Stó:lō people.

Band member Isaac Aleck spoke with me at length of the importance of asserting the Aboriginal right to fish, regardless of any hardship. For his part, Isaac Aleck has found himself in court defending his Aboriginal right to fish, with the assistance of legal counsel and at times, without.

In essence Cheam fishers have relied on their tradition of fishing as means of differentiation, a means of resistance to outside forces of oppression as described by Sider in his discussion of the Lumbee Indians and their struggle for identity, or as Mauzé notes, "tradition has become a metaphor for identity" (1997). Because the battle lines have been drawn around their Aboriginal right to fish, or more particularly, the infringement of that right by colonial and state governments, acts of direct action on the part of Cheam work to further establish their identity as fisher people. Cheam fishers seek to distance themselves from the industrial fishery that has contributed to the infringement of their Aboriginal right to fish, while at the same time participating in it, on their terms. It is for this reason that Cheam fishers discontinued their participation in
the sale component of the Aboriginal Fisheries Strategy, a right for which many generations of Cheam fishers fought tirelessly.

As I sat along the beach at Cheam over the summers of 2002 and 2003, I listened as fishers exchanged comments over the latest ‘tricks’ pulled by DFO or incidents of near confrontation with the sporties who line the bars surrounding Cheam’s stretch of the river. However, for the most part the conversations centered on who was fishing where, what they were catching, how many they were catching, what length of net is best or more importantly, who’s up next in line to drift. The latter comment generally being followed by “Are you going after him?” In short what I observed was what has come to constitute a tradition of fishing. Cheam fishers will tell you Stó:lo fishers are the original commercial fishers. In the battle for the fish between DFO and Cheam, both sides claim autonomy over the river, while neither side has autonomy over the river. Cheam leaders say their decision to continue fishing and selling fish in defiance of DFO regulations is not specifically an act of resistance or rebellion; it is simply lived life and their connection to the past.

In the next chapter, I examine the Seabird Island band’s very different response to fisheries regulation. While on the surface Seabird Island’s response appears to be in direct opposition of that of the Cheam band, community leaders, as well as other Stó:lo leaders, maintain that the steps they took in working out a Justice Protocol agreement with Fisheries and Oceans is as much an affirmation of the Aboriginal right to fish as Cheam’s acts of protest. An agreement of another sort, negotiated between Fisheries officials and the Seabird Island Band seeks to lessen the burden of regulation on community fishers. And as with the Cheam band, Seabird Island leaders consider
their specific response to fisheries regulation to be rooted in tradition. In chapter 5 I discuss the components of this unique agreement as well as address a number of questions in connection with the approach taken by the Seabird Island community. Additionally, I explore the possible connections between Seabird Island’s particular response to regulation and their unique history as well as the wind dry fishery so closely associated with them.
Chapter Five: Would It Have Been Easier to Go to Court?

We needed an avenue to take care of our own people. So we sat down with Sgt. Emil Spitkoski, Chuck and Tyrone McNeil and DFO to try to prove to the rest of the world that we can sit at the same table, work towards the same goals, and have the same vision. This is giant step for our people. Clem Seymour, Councillor, Seabird Island (Sqwelqwels Ye Stó:lō, November 2002).

On October 16, 2002 representatives from the Department of Fisheries and Oceans, the Department of Justice Canada, Federal Prosecution Service (FPS) and the Seabird Island First Nation met to sign a Protocol for a Community Based Initiative for Fisheries Offenses. The occasion was marked by a chorus of drummers and singers as well as over 100 members of the community and dignitaries. Commenting on the agreement, Band Councillor and member of the agreement negotiating team, Clem Seymour remarked that "It used to be that only certain people were held accountable. With this agreement, all people will be held accountable in terms of looking after the resource, I felt that was important. This is the foundation of a new relationship" (2002, Justice Canada, Vol 3 No. 1). Clem Seymour also explained that "Fish is a resource. The signing of this protocol was in hopes of preserving this resource for our grandchildren. There is no one group that can save the salmon alone, we have to work together" (Sqwelqwels Ye Stó:lō, November 2002). Commenting further on the agreement, Joe Aleck, an elder and facilitator for Qwi:qwelstom, referred to the agreement as "win-win situation." Noted Joe Aleck, "In the normal court system, one case could cost as much as $13,500 to bring to terms. While on the other hand, referring the case to Qwi:qwelstom could only cost $1500" (Sqwelqwels Ye Stó:lō, November 2002). Quoting Chief Mark Point of Skowkale, "all of us are stakeholders in salmon. The salmon are in peril. If there are no salmon, what good is an Aboriginal
right?" (Sqwelqwels Ye Stô:lō, November 2002).

The Seabird Island agreement follows that of the Esketemc First Nation in British Columbia in 2001. After hearing of the Esketemc First Nations agreement, members of the Seabird Island band council began meeting with DFO the RCMP and, eventually, the Department of Justice to design an agreement that would serve their community. As part of a discussion he and I had regarding the protocol agreement, Tyrone McNeil of Seabird Island explained to me that, initially, the agreement was to be a way of dealing with the communities’ relatively few numbers of infractions. 48 While lauded by some as “a milestone in the long road of restoring First Nation community-based justice in Canada,” important questions arise regarding the agreement - some regarding the practicality of the agreement and others regarding its effects on Aboriginal fishing rights. Additionally, I question to what extent have the unique history of the Seabird Island community and the unique characteristics of the wind dry fishery - a fishery steeped in tradition and at the center of conservation concerns each summer - contributed to the development of Seabird Island’s Justice Protocol agreement. Of particular interest is Seabird’s emphasis on conservation and recognition of the importance of a collective approach to the fishery as spelled out in the agreement. Before addressing this questions, I begin with a brief demographic overview of the Seabird Island community as well as a brief history of the reserve.

48Notes Clem Seymour regarding the number of Seabird Island infractions are significantly lower than the neighboring Aboriginal community of Cheam. Clem Seymour reported that in most years there were usually no more than five community members charged. Most years, no charges. Compare that with the hundreds of cases from the 2000 and 2001 fishing season still pending in the Cheam community, a community a half of the size of Seabird Island.
Community overview

Seabird Island is the largest of the Stó:lō reserves in hectarage and is located in the Fraser River about seventy miles east of Vancouver. The island is cut off from the mainland by Maria Slough. Seabird Island consists of one reserve, comprising 2,140 hectares of which approximately 730 hectares are cultivated. The remainder of the land base is used for residences, community buildings, rights-of-ways and economic development. The reserve has its own fire hall and fire equipment.

Additional services provided on the reserve include a postal service and numerous health and social service agencies. Many of the social programs are administered directly by the Seabird Island band. The population is sufficient enough to provide for an elementary school located on the reserve. The most recent census data report a total population of 749 - 503 on reserve, another 228 residing off reserve49 (Stats Canada, Registered Population, Oct. 2004).

Employment opportunities on the reserve are somewhat less limited than with the Cheam community. The majority of those working on the reserve are employed by the administration office and various agencies and businesses providing services to community members. Other economic activities include Seabird Island Café, Seabird Island Farms, a gas bar, a truck stop and a gift store. Farming, fishing, hunting and

49Of this 228 residing off reserve, 18 reside on another reserve.
various forms of hourly wage labor are relied upon as a way of making ends meet. Again, as with most Sto:lō communities, including Cheam, fishing is an essential component in individual household economies.

The Creation of a Community

The Seabird Island community has a unique history. The name Seabird comes from the American steamer which ran aground on this island in 1858. The reserve land was established in 1879, however, the land was held in common by the six upriver bands until Seabird Island Indian Band was created in 1958. The reserve community includes individuals relocated from surrounding Sto:lō and Nlaka'pamux communities along the Fraser River in an attempt to promote agricultural pursuits among the Native peoples. Initially the residents of Seabird Island did not take easily to the role of farmer (Leacock 1949:192). Eleanor Leacock notes that when she visited the island in 1945, 66 years after families were relocated to the area, there appeared to be only one farm on the island, two other farms having fallen into disrepair. The majority of the Indians gardening haphazardly, relying principally on wage labor as loggers, railway workers and seasonal hop and berry pickers much the same as most in the valley. Regardless of Leacock’s observations in the mid 1940s, the Seabird Island reserve has more acreage devoted to agriculture than any of the other Sto:lō reserves with approximately thirty-four percent of the reserve land given to agricultural practices.

As with other Sto:lō communities, fishing always been important to their way of life. The importance of salmon fishing was reaffirmed by the members of the Seabird Island community with whom I spoke. Many of the present day Fraser canyon wind-dry fishing spots are owned by members of the Seabird Island community. In recent years
the wind-dry fishery has come to be considered a hallmark of traditional Stó:lō life and the dry-rack families the keepers of that tradition. The wind dry fishery will be discussed in more detail in subsequent sections of this chapter in an effort to explore the link between that 'supra-traditional fishery' and the decision on the part of the Seabird community to enter into the Justice agreement.

Funded under the Aboriginal Justice Strategy, a federal initiative of Justice and the Department of the Solicitor General, Seabird Island’s unique Protocol agreement represents collaboration with the federal government in response to the government’s regulation of the fishery. Through this collaborative effort all parties to the agreement worked to achieve the goals each party deemed essential to a successful process. In summary, the Protocol provides for diversion both before and after charges are laid. Additionally, diversion under the Protocol is consensual. If the accused, the community, DFO or the Crown (after charges have been laid) do not consent, the matter remains in the court system. If the accused does not agree to the disposition reached through the circle, the matter is referred back to the Crown. As a part of the agreement, Seabird Island negotiators insisted that the diversion be allowed to take up to one year, gaining some concession from the government on that point. Seabird Island negotiators also stipulated that the preamble to the Protocol contain a reference to the importance of a "collective process" with regard to the conservation of fish, and the place of "trust, respect and honesty" as the foundation of healing and wellness of its citizens. But can this collaboration designed to bring resolution function within a framework of regulation, that, for some in the community (as well as for Stó:lō fishers outside the community) has no resolution when set within the context of the Aboriginal
right to fish? Before addressing this question, I describe the program designated to handle individual cases electing to proceed under the protocol agreement:

Qwi:qwelstóm. As a part of that discussion I will also address the compatibility of the protocol agreement with the existing Qwi:qwelstóm structure. I begin, first, with a look at Qwi:qwelstóm.

Justice as Healing

Commenting on the appropriateness of Qwi:qwelstóm as a part of the Seabird diversion option, Grand Chief Clarence (Kat) Pennier remarked:

If you use Qwi:qwelstóm, you talk about the incident and look at the circumstances behind why it happened and how it impacted on the individual and the family as well as the [impact] on DFO on one side and the person who created the problem on the other side - and come to some kind of resolution. It brings into play the individual and his family and the extended family too. (Justice Canada, Vol. 3 No 1, 2002)

Qwi:qwelstóm is the Halq'eméylem word that best describes “justice” according to Stó:lō worldview. It reflects a “way of life” that focuses on relationships and the interconnectedness of all living life. The Qwi:qwelstóm program was initiated in 2000 as a conflict resolution program rooted in traditional Stó:lō justice. It is described as being based upon traditional Stó:lō forms of dispute settlement whereby affected family and community members are called together to discuss what has happened and to reach an agreement on how to best repair the harm and restore balance and harmony to the disrupted relationship. The program offers an alternative to the mainstream criminal and family court systems. Individuals who qualify can have their cases diverted from the mainstream court system to the Qwi:qwelstóm system.

Cases come to Qwi:qwelstóm from potentially four sources: self referral, community referral, RCMP referral or Crown Counsel referral. Referrals are made to a
Stó:lō Nation justice worker who determines how the case is to proceed through the system. Cases that are either more complex, or in need of moderation only, are referred directly to the Elders council and may or may not proceed through the remainder of the system. Once confirmation has been received that all parties have consented to the process, a facilitator is assigned. The next step involves convening a “circle” that can include the “offender” and supporters, victims and supporters, community members and leaders, Elders and community resources workers. The circle meets to determine a plan of action or resolution. The resolution is monitored by a community member monitor and a Stó:lō Nation justice worker. It can happen that more than one circle meeting is necessary to obtain resolution, as was the case with the Seabird Island band member who elected to participate in the new protocol system.

As spelled out in the protocol agreement, the Seabird Island First Nation with Qwi:qwelstóm, DFO and FPS are to participate jointly in the development and implementation of this alternative, community-based enforcement. Identified and defined in the agreement were a number of terms such as “defendant” - the person who is alleged to have committed an offense and “offense” - meaning an offense under the Fisheries Act and any related legislation. These two terms proved problematic in the processing of the first and only case under the protocol agreement.50 As noted in the protocol document, any citizen of the Seabird Island First Nation is eligible for diversion, however, the citizen or defendant must accept responsibility for the act or

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50To date only one case has been processed through the joint Protocol/Qwi:qwelstóm system. According to Clem Seymour, a few others with charges pending were considering the diversion process, however charges were never officially laid against any of those individuals.
omission that forms the basis of the offense and be willing to discuss the matter with
Qwi:qwelstóm, making every effort to reach an agreement with Qwi:qwelstóm. And as
spelled out in the agreement, provisions are made for pre-charge and post-charge
opportunities for diversion to the Qwi:qwelstóm system. So, how does the diversion to
the Qwi:qwelstóm system work?

Once the defendant has consented to the diversion process, Qwi:qwelstóm is
contacted to organize a traditional circle. As spelled out in the language of the protocol
document, Qwi:qwelstóm is to conduct sessions at a location that is suitable to all
parties, as soon as possible and in a way that integrates Seabird Island First Nation
oral traditional knowledge in respect of the protection of fish and wildlife and dispute
resolution. The officer or another representative of DFO is given the opportunity to
relate information about the impact of the offense on the fisheries, the habitate and the
community to Qwi:qwelstóm either orally or in writing. Again drawing directly from the
language of the agreement, at the end of the traditional circle, an agreement is drafted
outlining the disposition reached between Qwi:qwelstóm and the defendant. The
disposition of the case is to be monitored by the Stó:lō Nation justice worker or
community member and is to be completed within a year. Qwi:qwelstóm is responsible
for keeping records of each case so as to monitor and evaluate the diversion program.

In an effort to draw conclusions as to the ‘fit’ of the protocol agreement in the
Qwi:qwelstóm framework as well as the practicality of utilizing a diversion program to
adjudicate fisheries offenses, I will relate the particular circumstances of the first and
only fisheries case submitted to Qwi:qwelstóm for resolution. My information regarding
this case comes from my many conversations with Clem Seymour and from my
conversation with the individual electing to participate in the newly created diversion program.

Mr. R's Day in 'Court'

In December of 2003, I visited with Mr. R in his home on the Seabird Island reserve. At that time Mr. R was making money by cutting Evergreen trees to be sold as Christmas trees. Reluctantly, I had to turn down his offer to sell me a tree as I would be crossing the border on my trip home. In the course of the interview, Mr. R talked of his fishing experiences and that this was not the first time he had been charged with selling fish. His story regarding past fishing offense charges mirrored those related in earlier chapters; Fisheries' officers searching his truck for fish, confiscating fish and nets. He also talked of how he had participated in the Pilot Sale fisheries in the years that Seabird Island had signed agreements and he pointed out the items in his home he was able to procure with the funds he received in those fisheries. Finally Mr. R relayed the story of how he came to participate in the new diversion program.

In 2002 a member of the Seabird Island community - Mr. R - was charged with illegally selling fish caught under a food fish license. Mr. R had been laid off from his job and was receiving government assistance checks. One month, he received a smaller check due to the fact that wages earned in the previous month had been subtracted from what he was to receive. Needing those 'lost funds' to make ends meet, he decided to sell fifteen fish he had caught under a food fish license. He was charged with violating the Fisheries Act for the sale of those fish. In dealing with this specific

51Since 1997 the Seabird Island band has refused to sign sales agreements and the present band leadership remains firm in its refusal to sign sales agreements in that they look upon the agreements as an infringement of the Aboriginal right to fish.
charge, Mr. R elected to utilize the new option made available under the newly signed protocol agreement and divert his case to Qwi:qwelstóm rather than going to court. According to Mr. R it took nine ‘circles’ to finally settle his case. Things got off to a rocky start when the fisheries officer showed up at the first circle meeting in uniform, complete with his side arm. According to Clem Seymour, heated arguments ensued and the meeting ended when the principals involved walked out. Mr. R was eventually able to tell his side of the story, with his check stub in hand.

Throughout the numerous circle meetings that took place, the number of individuals involved in the circles ranged from nine to twelve, including folks from other Stó:lō bands. During the fourth circle, folks showed up to tell Mr. R “he was in the wrong- what he had done was wrong.” Throughout the numerous gatherings, folks, including elders, showed up to challenge the appropriateness of what was considered by them as “in essence” admitting guilt to an offense they deemed an Aboriginal right. Mr. R noted that the elders were on his side all the way through. Throughout the entire process, the debate over the Aboriginal right to fish and the authority of DFO to limit that right continued. As Mr. R explained to me, “There really wasn’t anything I could do, but sit quietly and listen as it was inappropriate to interrupt the person holding the feather.” Resolution was finally reached, and as a part of the resolution agreement Mr. R. was required to provide thirty fish to community elders. He was also required to talk with school children about what fishing means to Stó:lō people.

When I asked Mr. R how this process compared to what he could have expected had he “gone to court,” he told me, “This process dragged on for eight or nine months. My court date was set for four months after I was charged. The fine would have
probably been around one hundred dollars and I could have paid that over time. When I look back on it, it might have been easier to just go to court.” However, Mr. R did tell me that he felt good about the outcome of the circles. And he especially felt good about giving fish to the community and speaking with the school children. He considered both requirements to be important contributions on his part to his community.

Alternative Justice and the Aboriginal Right to Fish: A Good Fit?

The Seabird Island agreement is not the first attempt by Stó:lō peoples to handle so-called fisheries offenses outside the courts. According to Ernie Crey, former Executive Director of the Lower Fraser Aboriginal Fishery Commission, just such an attempt was made in the early years of the pilot sale program. Ernie Crey notes that a member of the Sumas band was charged by Stó:lō enforcement officers, the specific charge being, “fishing not in keeping with the terms of the Pilot Sale agreement” signed by the Sumas Band. A chief’s signature on the sale agreement binds all members to the terms of the agreement for the year in question. The Stó:lō enforcement officer approached the Sumas chief, then Lester Ned, as to how to handle the situation. DFO accepted the Band’s proposal that the ‘offending band member, DFO and the Stó:lō enforcement officer appear before the Sumas band council. The band council determined that the individual was to have his license suspended, a penalty similar to those ordered by the courts in past fisheries cases.

The Seabird Island Protocol is not the first attempt to bypass the court system, but it is the first attempt at a formal agreement with the government agencies regulating the fishery as well as the first attempt at instituting a formal justice protocol to deal with
fisheries violations based on traditional practices. In the case of the Sumas band member, the offense committed was termed a violation of the terms of a specific agreement signed by his band rather than a violation of fisheries regulation in general, whereas in the Seabird case, Mr. R was charged with a violation the Fisheries Act. In the case of the Sumas offense, no discussion took place as to whether or not the decision to turn the matter over to the band for remedy was an infringement on that individual's Aboriginal right to fish. While some in the Seabird community viewed Mr. R's decision to use the Qwí:qwelstóm program rather than going to court as an affirmation of Aboriginal rights, "a way of showing we can take of things ourselves" others remained steadfast in their belief that participation in the newly implemented justice program was an admission of guilt for breaking the white man's law; a law not recognized in the context of the Aboriginal right to fish.

In an early interview with Grand Chief Clarence Pennier in the summer of 2002, at that time in his position as Executive Director of the Aboriginal Rights and Title portfolio for Stó:lō Nation, I must admit that the first question I posed to Grand Chief Pennier regarding the Seabird Island agreement dealt with limits on Aboriginal fishing rights. Specifically, I asked Grand Chief Pennier, "Isn't signing an agreement designed to deal with fisheries offenses an acceptance of DFO's right to limit that right?" According to Grand Chief Pennier, it was more an acknowledgment than an acceptance. I would pose this same question to Clem Seymour on more than one occasion as we talked over the next weeks leading up to the signing of the agreement in the fall of 2002. It is on the issue of Aboriginal rights and title that some members of the Seabird Island as well as other Stó:lō bands question the appropriateness of such
an agreement.

While the community was somewhat divided on the agreement, Clem Seymour noted that concerns over the agreement in regard to Aboriginal fishing rights came from outside the Seabird community for the most part. Given that there is no mandate to participate in the diversion option made possible by the protocol agreement, the decision to sign and implement the agreement did not have to be put before the community for a vote. Individuals choose for themselves whether or not they wish to participate. Individuals may elect to have their cases heard in the courts. The courts have been the battleground over which gains have been made in regards to Aboriginal rights, and fishing rights in particular. Those choosing to affirm their rights through the courts are indeed left with that option. Not surprisingly some members of the Cheam community with whom I spoke do consider participation in the protocol agreement as an infringement on the Aboriginal right to fish - an acceptance of regulations that were implemented without consultation and without benefit to Aboriginal peoples. Some members of the Cheam community went so far as to state that regardless of the hardship - financial or otherwise - one did not relinquish the fight for the Aboriginal right to fish. The comments I received from other Stó:lō fishers ranged from, "I don't know anything about the agreement" to "I think it's a good thing" to "they can do whatever they want, they don't come to the fishing meetings anyway." Stó:lō leader, Soowahlie Chief Doug Kelly commented to me that he believed the agreement was "a good thing." Additionally, DFO and RCMP officers with whom I spoke, also praised the agreement.

Beyond the question of appropriateness in regards to Aboriginal rights, questions arose as to whether or not the Qwi:qwelstóm program was designed to
accommodate cases regarding fishing violations. I spoke with Mr. R's justice case worker over lunch one afternoon and she talked of some of the problems encountered in this first attempt to merge the two programs. Most of the problems stemming, of course, from the fact that this was a new situation with which no one had any previous experience. Generally the cases that are diverted to Qwi:qwelstóm require that the "offender" admit his or her guilt and then set about restoring harmony and balance with the aid of those participating in his or her circle. While harmony, balance, resolution and healing are, all, indeed the goals contained in the language of the Seabird Island Protocol agreement, that harmony, balance, resolution and healing must come without any admission of guilt on the part of the offender, at least that is how it is supposed to work as it was repeatedly explained to me. However for some in the cold, stark light of day it remains punishment for a crime.

The philosophy of Qwi:qwelstóm is to bring resolution such as to prevent the offense from occurring again. Given the situation today in regard to the fishery - limits on fishing, frequent closures and the inability to participate in legal sales fisheries in that Seabird Island refuses to sign the agreements, how can there be a resolution? What was reiterated to me was the importance of the agreement in healing old wounds and establishing a partnership with the federal government - a way for the Seabird Island community to look after itself within the context of a traditionally recognized importance of the collective process with respect to the conservation of fish. This particular notion of conservation bound in tradition is specifically expressed in the Justice protocol agreement. Embedded in that tradition is also the notion of harmony and resolution and the reliance on community based justice to achieve that harmony.
and resolution. Before discussing the agreement within a theoretical context, a trip to a Fraser Canyon dry rack camp provides the context necessary to explore the role of tradition in the development and implementation of the Seabird Island Protocol.

Life Lived as Tradition

The sockeye fishery that takes place in the canyon each summer is a swirling contradiction, much the same as the summer waters in the canyon. Each summer a number of separate fisheries take place all within the confines of the narrow canyon walls. Wind dryers compete with food fishers as well as those fishers identified in the various Stó:lō communities as commercial fishers (these fishers will be discussed in following chapter). Continued government interference in the canyon fishery has placed these fisheries in opposition to each other. At present the Stó:lō wind dry fishery is made up of fifteen families who travel to their canyon fishing camps along the Fraser River just above Yale, BC every summer. The fish that are caught in the camps are processed on site by cutting them into filets and hanging them on racks to dry in the canyon winds. Quite often there will be more than one family “on” a single rack. When I asked Clem Seymour about how many Seabird Island families had wind dry camps, he listed seven families from the Seabird Island community out of fifteen wind dry camps.

In her thesis entitled, “Regulating Tradition: Stó:lō Wind Drying and Aboriginal Rights,” Caroline Butler discusses how “today, wind dried salmon is valued as

52 The number of available wind drying licenses has been capped at the 15 established families who own/occupy the existing sites. The limit on the availability of a site and/or a license contributes increased ‘cultural’ significance of the wind or dry rack fishery.
something more than food; it is constructed as a link to the past and to the river and as such, is considered an important cultural activity" (1998:1). Notes Butler, Stó:lo wind dryers now label dried salmon as traditional food (1988:2). Contributing directly to the increase in cultural significance of the wind dry fishery has been the ever increasing government regulation that has limited access to the salmon resource. In her investigation of the wind dry fishery, Butler spoke to a number of the wind drying families. One wind dry fisher with whom she spoke summed up the attitude of many, but certainly not all, of the wind drying families regarding the fish taken for sale:

...with commercial fishing and drying, the one that is older, the one that is more culturally intact should be prioritized. (Butler 1998:13)

Complicating the discussion is the fact that several of the wind dryers are also involved in the Stó:lo commercial fishery as well as the fact that some families with dry rack spots have used their spots to fish 'commercially' taking their catch home un-processed or slightly processed, purportedly for sale. But I'll come back to that discussion. It is

53That is simply speculation on the part of some fishers who take issue with the actions of these fishers. I personally witnessed no such activity. The story was relayed to me one day while I was at Seabird Island. I was told of folks coming up ostensibly to participate in the dry rack fishery, but rather than processing their catch in accordance with the stipulations in the dry rack license, they simply hauled their catch away unprocessed. I was told of the nuances of the dry rack fishery and how you could tell when fishers were serious about processing their fish for the dry rack. When preparing the fish to be fileted for the dry rack you have to let the blood drain completely out. In order to do that you need to ‘get cutting’ on the fish right away while the blood will drain out. It takes a certain amount of time to accomplish this task. Someone who has fish piling up around them because he/she is pulling the nets in too fast was “is probably not there to hang all their fish” (Referring to sockeye for this example, which is the critical run for dry and the run given the most attention by DFO. Spring salmon that may still be running with the early Stuart sockeye were usually canned. But nonetheless they too had to be processed on site in accordance with the dry rack license). Whether any validity can be assigned to the story or not, its importance lies in the fact that it clearly illustrates a situation of opposing uses in the salmon fishery as well as the varying opinions as to the priority of those uses. Such actions are not
necessary at this point to focus on the dry rack activities of one Seabird Island family in an effort to understand the 'supra'-traditional designation this fishery has received.

Upon revisiting this discussion, I will describe the events of the 1998 fishery observed by Butler as compared to my observations of the 2002 canyon fishery.

On July 20, 2002 I visited the dry rack camp of Grand Chief Archie Charles and his common law wife of thirty-four years, Tina Jack from the Chawathil First Nation. One of the first things I noticed was just how dangerous fishing from the side of the canyon can be. Just two weeks earlier the water level in the river had been at a thirty-year high and was quite dangerous. Just one week before my visit, Grand Chief Charles' nephew had fallen from the side of the canyon at their camp site and drowned.

Grand Chief Charles was born in Lakahamen in 1921, but was adopted by Mary Charles of Seabird Island in 1924. Mary Charles was also mother to Edna Douglas of Cheam. During my visit with Grand Chief Charles, who was 83 at the time of our interview, he told me that he had been traveling to his family's dry rack site regularly since 1946. Initially he talked a bit about the loss of fishing opportunities over these last 58 years and how conservation concerns regarding the early Stuart sockeye have forced the closure of the river to Aboriginal fishers. As the early Stuart run coincides with the optimal wind drying conditions, the increasing number of closures has given uncommon with groups relying on natural resources in crisis. The early Stuart sockeye run is the only run that can be wind dried because it is the only sockeye run coming in during the critical period of time when canyon conditions make drying possible. This run has been closely monitored by DFO for several decades; such monitoring often forcing river closures leaving the wind dry fishers with no fish to hang on their racks and no dried salmon in their cupboards.

Chief Archie Charles was honored as Grand Chief on June 11, 1993 for 22 years service to Seabird Island.
rise to tensions on the river over the years.

At the time of my Friday afternoon visit only a small portion of his very large (as many as 30 members) extended family was there, the remainder due in that night and the next day. Turning to a more lighthearted discussions, Grand Chief Charles talked of fishing with his mother in earlier times at the very site where we sat chatting, relating an amusing story of how he had left the nets to head down to the pub since the fish did not seem to be running. When he arrived back at the camp, he discovered eighteen fish in the net his mother had pulled out of the water by herself. As importantly, Grand Chief Charles talked of passing the knowledge of fishing onto the young people. He talked specifically of teaching the children how to cut the fish. To my amazement I watched young children use knives with great skill. As seemed to be his way, Grand Chief Charles told yet another amusing story of how he had taken great care in sharpening a knife for one of the youngsters. He handed the boy the knife who proceeded to beat the blade on every rock on his way down to the cutting area. Notes Grand Chief Charles, “That knife wasn’t sharp anymore, cut like a saw.”

Becoming serious again, Grand Chief Charles talked of the restrictions on the fishery in the name of conservation resulting in the loss of winter stores of dried salmon. Usually arriving at his camp the first of July to begin fishing in time to utilize the canyon winds, I noticed that twenty days after being in his camp, very few pieces of sockeye were hanging and those that were hanging, had not been hanging very long; their flesh still bright red. Grand Chief Charles commented that DFO had shut them down because of conservation concerns regarding the early Stuart run (the run critical to the needs of the dry rack fishers and the run on which DFO has placed the most
restrictions as discussed in this and previous chapters). The dry rack fishers were, again, in danger of losing the warm, dry canyon winds that would dry their catch before the flies arrived, signaling the end of the season. Grand Chief Charles said he would probably remain in his camp until the middle of August, two weeks longer than his family usually stayed in an effort to get his fish. However the conditions so critical to the wind drying process would probably not hold out that long. Grand Chief Charles expressed his disdain for the government policies that forced dry rack fishers to either fish prior to DFO's opening the river and risk being charged, or to wait and hope that an opening would come in time to utilize the canyon winds. He relayed a story of an encounter he had with a Fisheries official who had come from Ottawa. In an effort to get his point across in the terms of one culture to another, Grand Chief Charles remarked to the gentleman, “I never tell you when to go to McDonald’s and get a hamburger. What if I made a law saying you can’t have hamburgers after eight o’clock on Sunday night? How would you like it?” Grand Chief Charles remarked that he got no answer from the gentleman.

Returning to the discussion of the events witnessed by Butler during her fieldwork in 1998, I compare her observations with that of mine in the summer of 2002 in an effort to bring together the discussion of tradition as it relates to the fishery as well as Seabird Island’s protocol agreement. As a part of this discussion I focus on the Stó:lō dry rack fishing plan for the summer of 2002; a plan that draws heavily on the notion of tradition. Evident from this discussion are reasons Grand Chief Charles has remained so concerned regarding fisheries regulation and Aboriginal fishing rights for
most of his fifty-eight years in the canyon fishery.55

In the summer of 1998, 48 hours into the wind dry fishery, fishing on the Fraser was halted due to low water levels and record high water temperatures that were expected to significantly increase salmon mortality. Participants in the wind dry fishery pulled their nets in compliance with the DFO closure to protect the early Stuart run, while a sports fishery was still permitted in some areas of the river. This precipitated what has been described by most as a protest fishery, but referred to as a fishery for the elders by those initiating and participating in the fishery. In any event, the pressure placed on the sockeye by the protest/elders fishery was used as a further justification to keep the river closed to Aboriginal fishing, resulting in the denial of any further wind dry openings. Wind dryers from Seabird Island demanded to know why the protest fishery was not shut down and demanded the arrest of their friends and cousins who were protesting for the constitutionally protected rights of the wind dry fishers (Brown and Butler 1999). Fishers from several Stó:lo communities congregated at Archie Charles’ fish camp in to talk with fisheries officers about the dire situation. Many present at the meeting spoke of how they were standing up for their elders. Many referred to the court cases that have shaped Aboriginal rights: Delgamuukw, Sparrow, Guerin. Some talked of being able to trace their family history to the Yale fish camps for over 500 years. Some would be charged for their participation in the fishery. But in the end, only a total authorized catch of 1600 sockeye was allowed (Chilliwack Progress, July 14, 1998).

Looking at the summer of 2002, once again conservation concerns kept dry rack

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55Grand Chief Archie Charles had good reason to be concerned. Heightened concern over the early Stuart run forced strict closures in the 1970s.
fishers off the river for most of their critical drying time. An examination of the catch data for the last week of June and first week of July reveals no sockeye catches. For the second week in July a catch of only 20 sockeye was recorded, but these were not caught under a dry rack license. In short there were no catches for the dry rack fishers until very close to the end of the optimal drying time. It's no wonder that when I visited Archie Charles' fish camp near the end of July, I saw very few fish hanging. Just the week prior to my visit at the Charles' camp I attended a fisheries meeting at Sto:lo Nation where fishers were expressing grave concern over the fact they had not been allowed on the water. Most had lost faith in DFO's conservation restrictions, citing their own observations as a reason to begin fishing. Most were convinced that the early Stuarts had passed through Sto:lo territory and that DFO's decision to keep them off the river was arbitrary and counter to the mandates of Sparrow. It was a Wednesday afternoon and by the end of the meeting many had decided they were going fishing with or without approval from DFO; "their traditional Thursday through Sunday fishery" as I heard from a voice across the room. The fishery opened for the first time that summer on Thursday, July 18.

Discussion

Bringing this back to the Seabird Island Protocol Agreement, as I listened to Clem Seymour talk about the importance of the conservation of fish for the Seabird Island First Nation - language printed in the first page of the agreement - I began to piece together a picture in my mind of a connection linking the unique history of the Seabird Island community as well as the struggles faced by the wind dry fishers whose fishing opportunities are so closely monitored by DFO. Protection of the closely
monitored run could come in the form of a protocol agreement that ‘establishes itself’ as an effective tool for the protection and conservation of that salmon resource. Whether rooted in a real or imagined tradition, the protocol agreement works to establish the Seabird Island community as the ultimate guardians of their salmon resource.

In order to understand how the Seabird Island fishery is supported by tradition, again whether real or imagined, I refer to the protocol agreement itself, the 2002 Dry Rack fishing plan drafted by Stó:lō Nation and the mission statement of the Qwiqwelstom program; all three being directly connected to the Seabird Island Community and all three repeatedly affirming a connection with a traditional Stó:lō past. Examining each, beginning with the protocol agreement itself, this agreement seeks to remove the adjudication of fisheries offenses from the court room and relocate them into a system based on a Stó:lō worldview; a worldview that focuses on restoring balance and harmony to disrupted relationship and a world view based upon so-called traditional forms of dispute settlement.

Regarding the 2002 dry rack fishing plan, as I sat in the fisheries meeting just prior to my visit to the Charles’ fish camp, I heard several fishers speak of a reluctance to commit any plan, catch total, anything to paper in that DFO had a history of casting in stone any concessions made by Stó:lō fishers. However the 2002 dry rack plan sets down on paper very specific limits regarding the fishery; a fishery based on those guidelines not designed just to fill the cupboards of Stó:lō families with dried salmon for

56 In the late 1970s wind dry fishers complied when asked to give up their fishery for one year only. However, the ban remained in effect for several more years. Notes June Quipp, “We were never allowed to fish at this time of the year for quite a few years” (Chilliwack Progress, July 14, 1998).
the winter as much as to protect a tradition. The stated purpose of the fishing plan:

> to guide the activities described hereunder to be carried out by members of the Stó:lō people to ensure and orderly and traditional fishery and to allow for the instruction of Stó:lō community members by elders in proper techniques for processing fish by drying on racks. (Stó:lō 2002 Dry Rack Fishing Plan, page 1)

Dip nets can only be used after proper instruction by an elder and no one may participate in the fishery without the permission of family elders having jurisdiction over the fishing and processing sites. As noted Butler in her 1998 examination of the dry rack fishery, for many of the fishers the fishery had become the hallmark of Stó:lō tradition. This conceptualization of the fishery is indeed reinforced in the fishing plan submitted to DFO that sets out the guideline for how the fishery would be conducted.

All three examples have at their core, a connection with the past; tradition. In his examination of the history of the Lumbee Indians in North Carolina, Sider explains that tradition cannot be viewed in isolation of history or struggles with outside forces. But he also tell us that tradition is a means of resistance, a way of distancing oppressed groups from their oppressors found in that history of struggle. Notes Sider:

> Tradition names processes of continuing cultural and social construction through which they seek to distance themselves from the dominant society. (1993:72)

Additionally, Mauzé tells us that “tradition interprets the past according to the needs of the present” (1997:6). Both Sider and Mauzé’s notions regarding tradition and its function have far reaching implications for examining the movement on the part of Seabird Island to initiate and sign a Justice protocol as well as for establishing a connection between that agreement and the conceptualization of a traditional fishery. The connection cannot be drawn in bold marker and there is no smoking gun, it is
rather, a subtle connection that reflects the conceptualization of a fishery; a way of life; community, family - a connection to a past that may well be more imagined than real. This understanding the fishery is created not only by distancing from the oppressor, but also from other Stó:lō communities with opposing agendas, as regards the fishery. A number of the wind dry fishers have sought to distance themselves from the commercial fishery, while at the same time participating in it, albeit on their own terms and in a fashion they deem more palatable.

The idea of harmony also informs the narratives of tradition, particularly as regards Qwi:qwelstóm. Qwi:qwelstóm means to live in harmony, help one another to survive, to care and share amongst all people. Nader (1990) in her examination of indigenous justice movements rooted in notions of tradition and harmony, notes that these ideologies have been shaped by the colonial encounter, and that they reflect and mask the internal struggles that arose as a consequence. This is indeed evident when applied to examinations of justice systems but interactions with dominant powers in regard to access to natural resources - salmon. Drawing on Nader's discussion, Bruce Miller explains that using this argument, communities are said to manage their relations with the outside world by emphasizing a purportedly cooperative, harmonies past and de-emphasizing social conflict and contradiction in the present (2001:13). In the case of the Seabird protocol, resolution is sought from inside the community through an idealized past. Through the protocol agreement, the community is seeking to establish a partnership with the authority that, for the past century and a half, has had ultimate control over that past and continues, regardless of the presence of any agreement, to have control over the present.
In the next chapter and final case study, I focus on the Stó:lō commercial fishery, specifically on participation in fisheries conducted within the boundaries of the law. Considered in my discussion is the notion held by many that, participation in such fisheries runs counter to their Aboriginal right to fish. Also considered in my discussion is the intersection of that fishery with other canyon fisheries such as the dry rack fishery. More importantly I examine the Stó:lō commercial fishery within a context of resistance and I specifically seek to connect that fishery with Stó:lō tradition as it is used to affirm an Aboriginal right to fish.
Chapter Six: Highliners and Moneymakers

It's late July and I'm finally getting a chance to "go fishing" and in the canyon no less. Ken Malloway, his wife and I head out to set the nets. Along the way Ken Malloway points out his mother's now run down dry rack at Lady Franklin Rock and relates stories of fishing in the canyon. In a couple of hours we will return to check the nets and bring them in. Little did I know just how exciting my first fishing trip would be....but that's a story for another time.

In early July of 2002, the prospect for a sales agreement was bleak. By mid month it would be determined - no agreement would be signed. The sale of any Indian caught salmon would have to be conducted in the shadows. Flash forward to early July 2003, an agreement is signed. Stó:lō fishers would be able to sell their catch without the fear of prosecution and without the fear of losing their boats, trucks, nets, totes and fish. Fishers awaited word as to when the river would be open for fishing under the newly signed sales agreement. But on July 28, 2003 the word they got was "NO." The prospect of a legal, commercial fishery was gone when Judge Kitchen ruled that, among other things, the Aboriginal fishery was a race based fishery and therefore illegal under the Charter of Rights and Freedoms.57 Fisheries and Oceans responded by withdrawing the agreement. Stó:lō fishers would continue to fight for a legally sanctioned right to sell their catch, in the hopes that constraints on the disposition of their catch would be a thing of the past. How that fight has played out on the water over the years has generated debate and discussion within the Stó:lō fishery as well as the larger industrial fishery. Paramount to that debate among the Stó:lō bands has been the notion held by many that participation in such agreements runs counter to their Aboriginal right to fish. For many years, bands would not sign the agreements

claiming that participation in the sale agreement fisheries infringed on the Aboriginal right to fish. Within the larger industrial fishing community, the debate hinges on the specific language of the fisheries regulation adopted in 1888 declaring that Native peoples had the right to fish for food, social and ceremonial purposes but not for sale or barter outside the licensing structure created by that regulation; language that has created a somewhat narrow understanding of the importance of fishing in Stó:lō household economies.

As previously mentioned, the Pilot Sale fishery changed the face of the Fraser River salmon fishery in regards to the industrial fishery as well as the Aboriginal fishery. The change has been clearly evident in the Stó:lō fishery, particularly as regards the canyon fishery. As noted earlier the number of 'licensed' fishers doubled immediately upon implementation of the project. Though not all of those who obtained a designation card for fishing, fished, the numbers of fishers on the river did increase significantly. And almost as immediately, long established fishers began to voice their concern over the increased pressure on the resource as well as the effects of over-crowding on the water. As noted in the previous chapter, among the most vocal in that regard were the Seabird Island wind dry fishers. Also of concern was the increased level of violence on the water as fishers literally fought for fishing space. A number of fishers with whom I spoke, talked of how they did not return to their canyon fishing spots after the first couple of years of the PSA because of the crowding and violence. Notes one fisher from Shxw'ow'hamel with whom I spoke, "our fishers have become mean." In one of our many conversations Sonny McHalsie talked of increased incidences of 'corking' or the placing of nets directly in front of other set nets.
Accusations of greed also permeated the new fishery.58 Remarking on her decision not to fish in 1993, the second year of the PSA, one Stó:lō fisher told her story to the press. Sherry Tschetter reported to the *Abbottsford/Clearbrook Times*, that she was shut out of the Aboriginal fishery in 1992 (the first year of the PSA) “because too many band members became greedy” (March 10, 1993). In the same article, Ms. Tschetter noted “that since the AFS came into effect, the concept of fishing to provide food for the winter has fallen by the wayside.” Ms. Tschetter reported that others had their nets cut and they were threatened. Remarks Ms. Tschetter, “My nets didn't get cut because I couldn't get them in the water” (*Abbottsford/Clearbrook Times*, March 10, 1993). In my conversations with Ken Malloway he noted that for some, it was indeed all about the money. A chance to make, what some believed to be, enormous profits did lure many to the river who had not fished in the past, driving off many who regularly fished for food and sales. However for those fishers whose livelihood was already tied to the sale of in-river caught salmon, in particular those fishers known to the Stó:lō community as commercial fishers, the PSA was as much about the ability to continue that livelihood no longer at risk for losing their catch, boats, vehicles and equipment as it was an opportunity to exercise their Aboriginal right to fish as traditional Stó:lō fishers.

58Notes Bruce Miller in his discussion of Coast Salish justice issues, “For many elders, greed is a primary issue, including the hoarding of money, but, especially, hoarding of resources available to the band as a whole” (2001:132). In more than one of our conversations, Ken Malloway discussed with me the accusations of greed leveled at him. Interestingly enough, when Ken Malloway’s name was mentioned to me, it was to tell me a story of how “Kenny had given fish away.” One Stó:lō fisher with whom I spoke told me that, when Ken Malloway discovered the Stó:lō catering business couldn’t afford to serve salmon because they had to buy it at the grocery store, “Kenny picked up the phone and called the place where he stores his (frozen) salmon and told them to give the caterers all the salmon they needed and only charge them the cost of storage.”
In this chapter I discuss the legal sale of salmon as it has been conducted under the auspicious of sales agreements and commercial licensing. While engaging and at times expanding on Bierwert's discussion of outlaw fishing and its role as an assertion of agency, I specifically focus on two Stó:lō highliners and moneymakers: Ken Malloway and Lester Ned. By examining 'legal fishing' as it relates to an opportunity to make a living within a context of resistance and accommodation, I seek to uncover the simultaneously converging and diverging agendas within the Stó:lō canyon fishery; the canyon fishery being important to all three of my case study groups. Further I seek to reveal how participation in a legal sales fishery represents a form of agency.

Stó:lō fishers such as Ken Malloway and Lester Ned have been fighting for an Aboriginal right to fish and the right to a legal commercial fishery for many years. Both have been active in Stó:lō politics and are leaders in the cause of the Aboriginal right to fish. Lester Ned has fought for an Aboriginal right to fish that includes the ability to legally sell in-river caught salmon, not only in his role as part of the original negotiating team in 1992, but also as the first Fisheries Portfolio holder in the newly formed Stó:lō Nation in 1994. Ernie Crey commented to me as to what a powerful force Lester Ned was in his position of Portfolio holder; pressing for agreements that would allow Stó:lō fishers an opportunity to make a living off the fisheries resource.

Prior to the formation of the Stó:lō Nation in 1994, Lester Ned was the fisheries representative for the Stó:lō Tribal Council, one of the entities coming together in 1994 to form the Stó:lō Nation. As a fisher who has sold his catch in the years prior to the Pilot Sale Arrangement in 1992, Lester Ned has worked to secure a fishery free of arrest and the possible loss of fish and equipment. This is very important to Lester...
Ned, whose capital investment is great when compared with that of most Stó:lō fishers. However, Lester Ned's commitment to the Aboriginal right to sell fish runs much deeper than that. A number of fishers with whom I spoke, talked highly of Lester Ned's leadership in the fishery. As one individual remarked to me, "The fishermen respect Lester."

As has Lester Ned, Ken Malloway has fought hard for the legal right to sell his catch and has held leadership positions in regards to the fishery. Ken Malloway also participated in the negotiations in 1992 when the first pilot sale fishery was implemented. Ken Malloway began fishing on his own as a teenager, and he has always sold salmon. Even as a teenager, Ken Malloway was outspoken regarding an Aboriginal right to legally sell salmon. He talked to me of his first attempt at public speaking, when at the age of 18, he addressed a group regarding the legal sale of Indian caught salmon. As Ken Malloway described it, "I was so nervous. I had everything I wanted to say written down, but I was too nervous to read it." But that was over thirty years ago, and since that time, Ken Malloway has continued to fight for the Aboriginal right to fish, a right that he maintains includes the right to sell his catch.

Quoting Ken Malloway:

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59 At present, Ken Malloway is co-chairman of the BC Aboriginal Fisheries Commission, manager of the Stó:lō Fisheries Committee and a member of the Fraser Panel of the Pacific Salmon Commission.

60 Ken Malloway told me stories of how as a teenager, he had made enough money by selling salmon at $2.00 each to purchase a number of cars he hoped to eventually 'fix up'. The cars began to clutter Ken Malloway's mom's front yard and finally after repeated requests to "do something about the cars" had gone unheeded, she had the cars hauled away. Ken Malloway smiled as he noted, "I had some real classics, woulda been worth a lot of money today."
I don't make any bones about selling fish. I always have and always will. I'm not the first, my father wasn't the first, my grandfather wasn't the first. *(Chilliwack Progress, November 9, 1988)*

This fight has resulted in thousands of dollars in legal fees and the loss of nets and salmon. In February of 1989, Ken Malloway was set to appear in court on charges of illegally selling fish. His defense hinged on the constitutional right to fish; the challenge based on the evidence that Natives historically sold and bartered fish as recorded specifically in the Fort Langely Journals, and that as a result, Natives have an Aboriginal right to fish. This was the same defense set forth in the Vander Peet case, however ultimately to no avail. In one of our interviews Ken Malloway told me that he was charged with illegally selling fish roughly the same time as Dorothy Vander Peet (whom Ken said he later found out was a cousin of his). Notes Ken Malloway, rather than using his case or one of Sam Douglas', Stó:lō Nation leaders opted to press forward in their claim of an Aboriginal right to fish focusing on the charges laid against Mrs. Vander Peet. Interestingly enough, at that time Ken Malloway was charged with selling only eighteen salmon, eight more than Mrs. Vander Peet.

Stó:lō fishers maintain they are the original commercial fishers and that their Aboriginal right to fish includes the right to trade, sell or barter their catch. Quoting Ken Malloway again:

> We were the first commercial fishermen of B.C. until we were squeezed out by the government, the commercial fishing industry and the canneries. *(Chilliwack Progress, November 9, 1988)*

Stó:lō elders and others with whom I spoke talked of their parents trading with the members of the local communities for goods they could not produce, a practice that was illegal after 1888. A Sumas Band elder with whom I spoke, talked of his parents...
trading or selling fish with the local farmers to obtain eggs, butter and milk; the very things we now regularly pick up each time we pass a grocery store. June Quipp, from Cheam notes, "As far as I can remember my dad was in the business to buy and sell fish which he passed on"(Aboriginal Fisheries Journal, October 2000:3). In her discussion of the Stó:lō fishery within the context of public forms of resistance, Bierwert notes that:

On both sides of the border Salish people fished on their rivers, outside of permitted openings, often literally in the dark, eluding confrontation and public protests alike. (1999:242)

Bierwert goes on to pose such questions as, “Were these actions merely the overt opportunism of people on the economic margins already, or were they assertions of agency by people acting within their rights?” (1999:242). Continuing her discussion, Bierwert asserts that:

...children had watched the adults having to fish by cover of darkness....Those children grew to know fishing as a surreptitious, almost embarrassing activity from a diminishing culture, better forgotten in the pursuit of more conventional occupations in the larger non-Indian society. (1999:242)

The question I pose: is Bierwert’s outlaw fishing and the continued trade, barter or sell of salmon an act of resistance or simply life, lived or both? More importantly, is not the participation in that fishery an assertion of agency on the part of a peoples seeking to control some measure of their own destiny?

In her discussion of power relations, Bierwert provides her observations of the Stó:lō fishery within the context of struggle for power, from both within and the outside. She notes that the practices and conflicts that define outlaw fishing reveal the pressures exercised both from Indian fishers and upon them. I posit that the same can
be said regarding the legal sale fishery. Participation in the sale agreements is
thought by some - even some participating in them on the one hand while disputing
their validity on the other - to be an infringement on the Aboriginal right to fish. As
explained to me by Ken Malloway and others, the agreements do not define or suspend
the right, rather they simply set terms and conditions under which a particular fishery
can be conducted. Fishing methods are specified - set gill nets. Fishing times are set.
Most importantly, the size of the total catch is limited to a negotiated allotment. It is
important to note that these conditions also exist in the non-agreement years. Fishers
supporting the agreements openly push for the implementation of the agreements,
while simultaneously speaking out against the restrictive conditions contained in the
agreements. According to the fishers supporting the agreements, the Aboriginal right
to fish exists whether or not sales agreements are in place. For these Stó:lō fishers
participation in such fisheries is no less traditional. Viewing participation in sales
agreements as less than traditional, freezes tradition in time and space rendering it
useless within a paradigm of resistance and agency. While commenting on how
restrictive the negotiated agreements have come to be, both Lester Ned and Ken
Malloway consider them as important steps in affirming the Aboriginal right to fish.

Highliners in the Canyon

As noted previously, nearly two thirds of the Stó:lō fishery is conducted in the
roughly 20 miles of river located between the present day town of Hope and Sawmill
Creek located five miles above the present day town of Yale, these boundaries
constituting the canyon fishery. In my conversations while in the field, three families
were repeatedly mentioned as canyon highliners: Commodore, Jimmie and Malloway.
According to Ken Malloway the number is four: Commodore, Jimmie, Malloway and Malloway. As explained to me by Ken Mallowy, a number of years ago he set out on his own; operating his own boat. While this may appear as a break in family ties, it is not. Kinship ties form the base of social organization whereby corporate activity and family are linked and essential to the business of fishing. This fact is reflected in way that the canyon fishery is conducted by families such as the Malloways and the other canyon higliners. The nuclear family often make up fishing crews. Extended family members were also relied upon as crew members. But more importantly, family ties provided access to prime fishing spots and in some cases were essential to the ability to participate in the fishery. A closer examination of the Malloway family’s participation in the sale fishery and in particular Ken Malloway’s participation in the fishery will make clear this distinction as well as addressing many of the situations and issues touched on by Bierwert.

Ken Malloway carries the hereditary name of Wileleg, which means one who is always careful and always aware. To the Stó:lō people with whom I spoke, he is known as Kenny. Ken Malloway has fished all his life, primarily in the Fraser Canyon, specifically in that stretch of the river five miles above Yale. His mother’s now abandoned dry rack can still be seen in its spot at Lady Franklin Rock which marks the

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Carlson notes that based on his analysis of Suttles’ work, and drawing on Bruce Miller’s study of Stó:lō kinship ties, that while relations with extended family members and in particular in-laws were important in access to resource sites, close kinship ties with distant people could also work to a family’s disadvantage, especially if a kin group held ownership rights over a particularly valuable resource with a unique geographical expression, such as Fraser Canyon fishing sites. Notes Carlson, exchange with close kith and kin was reciprocal, but trade with strangers was designed to turn a profit (2003:65). This observation on Carlson’s part reinforces the notion of exchange for profit as part of Stó:lō society.
'official' entrance into the canyon. During our interview time together, Ken Malloway told me many fishing stories through which he explained to me the life of the Stó:lō fisher. At times I was so full of questions I could not contain myself. Ken Malloway would stop me and say, "My stories are like the TV show and your questions are the commercial interruptions." Somewhat red faced, I would attempt to sit more quietly, hoping to remember all that I wanted to ask. In reality, his stories were more entertaining and educational than anything found on TV. Ken Malloway's stories were windows into a way of life; a way of life that is the essence of Stó:lō identity. Additionally, Ken Malloway's stories made clear to me that it isn't always about the money, it is about a way of life and sharing that way of life with his children.

Ken Malloway will tell anyone who asks, and perhaps even those who don't ask, that he is not just a fisherman; he's the best (Abborstford Times, Tuesday, December 9, 2003). This designation of 'best' was reinforced when sitting in court observing the proceedings of a fisheries offense trial, I heard DFO officials refer to Ken Malloway as a highliner. As a teenager, Ken Malloway would hop the Canadian National freight train that made its way from Chilliwack through the canyon. The run through the canyon was Wednesday and Saturday and according to Ken Malloway "You had to be ready, have all your fish packed up the hill, because you never knew what time the train would be coming through." The payment for train passage into the canyon was six sockeye. Over the years Ken Malloway earned enough to purchase a boat, upgrading when funds permitted until he acquired the boat he now operates which is a 20 foot, flat

62 Sid Douglas also talked to me about taking the CN freight train into the canyon to fish. Ken Malloway said that this practice ended in about 1977 or 1978.
bottom aluminum craft, a current investment of approximately $20,000 including motor.63

When I talked with Ken Malloway about his participation in the Pilot Sale fishery, he explained how fishing under a sales agreement differed from non sales years. Ken Malloway mentioned how he fished with his immediate family working as paid ‘crew’ while the remainder of his siblings fished with his brother Melvin Malloway. According to Ken Malloway, a record of family catches over the years adorns his brother Melvin’s boat. Notes Ken Malloway, “You should really get a picture of my brother Melvin’s boat. He’s got an accounting of everyone’s catch painted all around his boat. I don’t know what he’s going to do when he runs out of room. Paint the boat and start over, I guess.” However, according to Ken Malloway, some of his siblings did fish with him at times, or he would fish for them. On one occasion when I fished with Ken Malloway, members of his family made up his crew. For the most part, the ‘crew’ worked while Ken Malloway regaled me with stories of his many years of fishing the canyon waters. Numerous times his sister would have to remind him of the task at hand as newly caught salmon were being returned to river; a distracted Ken neglecting to pull them out of the net as it was passed to him.

This more leisurely approach to the fishery is in sharp contrast to the Pilot Sales fisheries. Fishing under the sale agreements is very different with operations under the sale agreements resembling those of the industrial fishery down river in that crews are hired for these fisheries and openings are generally shorter with fishing being

63 Ken Malloway purchased his current boat in 1991 prior to the launching of the Pilot Sale program in 1992 and ‘his accumulation of great wealth.’ His motor however is relatively new, purchased within the last two years.
conducted around the clock to make the most of the short time on the river. With the decreased number of hours available for fishing, nets are checked and emptied more frequently or 'hot-picked', the term Ernie Crey used when describing some defining characteristics of the 'sales' fishery. Landing and counting sites are set up at various points along the river to comply with the terms of the Pilot Sale program, therefore, fishers have shorter distances to travel to off load and dispose of their catch as buyers line up on the fishing grounds to make their purchases. According to Ken Malloway, “even though the openings are shorter, the prospect for good numbers were there if one fishes hard enough.” While for Ken Malloway fishing in all years is a business, it has been in the sales agreement years that the fishery in general has taken on the appearance of a business.64

Bona fide Commercial Fisherman

The business of fishing need not be separated from the Stó:lō tradition of fishing whether conducted illegally in the shadows of night or legally in the light of day. Whether agency is exercised within or outside the 'acknowledged' system of tradition, when viewed in the context of Gavin Smith's (1989) discussion of livelihood and resistance, connections to that acknowledged tradition are visible. Comparisons can be made between Smith's discussion of peasant livelihoods and Indian participation in the industrial fishery. This Indian participation in the industrial fishery is chronicled in such works as Dianne Newell's Tangled Webs of History (1993). Her discussion focuses on that participation as it existed in the early years with the introduction of the ________________________________

64Bierwert notes the cranes and scales, newly appearing on the fishing grounds in 1992 with the implementation of the Pilot Sale program. Also noted was the newly built warehouse that held five trailer trucks that collected the Stó:lō catches (1999:250).
industrial fishery and as it exists presently within the larger commercial industry. For this discussion I focus fishing activities of a “Bona fide Commercial Fisherman.”

Lester Ned, who jokingly refers to himself as a bona fide commercial fisherman because he holds a commercial license, has a long history of participation in support of Aboriginal fishing rights. Lester Ned will tell you that the Stó:lō have been fishing on the Fraser for at least 10,000 years and, throughout that time, management and harvesting of salmon has been central to Stó:lō cultural, societal, economic and ceremonial life. He will also tell you that, suddenly in 1888, the government established what is called the Indian Food Fishery, and displaced Stó:lō fishers from their role as managers of the resources. This was indeed the history lesson I received from Lester Ned when I first sat down to interview him in his home in Abbotsford. But that is only of half the lesson. As he did with me, Lester Ned talked of the responsibility of protecting salmon for the benefit of all, “like our ancestors.” Equally as essential is protecting the Aboriginal right to fish. As Lester Ned said to me many times, “We cannot sleep on our right.” Lester Ned will also tell you, as he did me, that the Stó:lō were the first commercial fishers and that he has earned a living from fishing all of his life.

Lester Ned operates a thirty foot gill-netter (bow picker) just below the Mission Bridge under an A-1 (Area E) Indian commercial license he has held for about 25 years for which he pays $380 annually to maintain. The value of his boat and license is estimated at approximately $160,000. In addition to fishing under his A-1 Indian commercial license, Lester Ned also fishes under the Sumas Band communal food
fishing license. Lester Ned's position in the fishery is unique for a number of reasons in addition to his A-I commercial license. In 1986 or 1987 DFO approached Lester Ned about relocating his fishery from Devils Run to avoid the further taking of co-migrating Steelhead. He agreed to relocate from Devils Run if DFO would allow him to operate a drift net above the Mission Bridge. In an effort to save the wild steelhead, DFO agreed to do so on a trial basis and Lester Ned was issued a license to drift above the Mission Bridge.

Prior to 1990 Lester Ned fished his traditional spot at Devils Run, the traditional fishing spot for the Sumas Band community when participating in Indian fisheries. After 1990 Lester Ned had completely relocated to the area around the Mission Bridge. However, this situation was further complicated with the implementation of the Aboriginal Fisheries Strategy in 1992. DFO found it difficult to operate their acoustic counting device in the area just above the Mission Bridge with Lester Ned in the water. Again they approached him about relocating. Lester Ned agreed to move to an area just below the Mission Bridge and has fished in that area since 1993.

While this relocation may have helped to solve DFO's conservation problems, it created new problems for the newly formed Lower Fraser Fishing Authority which would eventually become the Stó:lō Nation Fisheries. The stretch of the river where Lester Ned would eventually settle is the traditional territory of the bands along the stretch of

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65"Food fishing" is a term Lester Ned takes great exception to, contending that the separate designations of food and commercial are government constructs holding no validity to the Stó:lō. He prefers the term "Native fishing." When I conducted my first interview with Lester Ned on July 9, 2002, he noted that as of that date there had been no opportunities for fishing under his commercial license - no openings. Opportunities for commercial fishing were also limited in 2001.
the river near Mission, specifically the Matsqui and Lakahaman bands. Both Matsqui and Lakahaman were signatories of the sales agreements in the years from 1992-1997. These agreements specified the gear types to be used and the areas where those gear types could be employed in the fishery. For Lester Ned to continue to operate his "lazy white man's boat" as he jokingly refers to his gillnetter, in the Pilot Sale fishery (or any fishery), he would have to remain in the area below the Mission Bridge. According to Lester Ned, he was able to reach what he described to me as a 'gentleman's agreement' with the Lakahaman Band to operate his boat in that area, however, the Matsqui Band complained of Lester Ned's presence in their traditional territory.

Complaints were made to DFO and to the Lower Fraser Fishing Authority in the early years, and the Stó:lō Nation Fisheries more recently. Both Ernie Crey, formally of the Stó:lō Fisheries Department and Bert Ionson of DFO mentioned to me that they had been called upon by the Matsqui Band to remove Lester Ned from their territory.

Lester Ned's entrepreneurial approach to the salmon fishery is clearly evident. However, in my many conversations with him, Lester Ned spoke of fishing as a Stó:lō activity, integral to his identity as Stó:lō. In my first interview with Lester Ned in July 2002, he talked of fishing at his family site at Devil's Run, where his father fished before him and he fished. He talked also of the obligation to provide salmon to band elders and others who are not able to fish. In contrast to the family fishing exhibited by the very large Malloway family and other canyon highliner families, and even the

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66This situation was mentioned to me by Lester Ned during our first interview. The situation was also described/explained to me by Ernie Crey, who was appointed Executive Director of the newly formed fishing authority in 1992 and by Bert Ionson of the Department of Fisheries and Oceans.
families fishing off Cheam Beach, Lester Ned fishes alone, his son choosing quite often to fish off Cheam beach with his Cheam cousins. Joking with me that day I visited him onboard his boat, Lester Ned remarked, "No-one in my family wants to be on the boat with me."

However, Lester Ned and his wife are very much partners in their fishing business. When I interviewed Lester the second time in March of 2003, I received a guided tour of his fish processing facility at his home in Abbottsford as he explained to me how his commercial operation worked, explaining all the health guidelines under which he had to operate, including the numerous inspections of his boat and processing facility. More recently Lester Ned and his wife borrowed $25,000 to upgrade his fish processing facility, putting in stainless steel tables, flash freezers and more overhead lighting. Eager to show me the upgrades Lester Ned invited me to come by for another tour of the facility. Regretfully, I have not yet visited his newly renovated fish processing facility.

Lester Ned's capital expenditures in his boat and processing facility are the exception rather than the rule among the Stó:lō fishers in the area above the Mission Bridge. As explained in a subsequent section of this chapter, the Stó:lō fishing fleet operates on its proceeds rather than ahead of them. Lester Ned is well aware of the gamble he has taken given the existing constraints on Aboriginal fishing and that the fact that his fishing times are limited by his is employment with the Southern Stl'atl'imx Band Health Society as the health director. This position requires that Lester Ned spend five days a week in Pemberton, British Columbia, affording him limited fishing during weekend openings. This is compounded by the fact that commercial openings
have been considerably shorter than openings for the Aboriginal fishery. However he and his wife are optimistic that they will be able to make good on their recent capital investment. As in my conversations with Ken Malloway, Lester Ned has also expressed concern of the implications of the Marshall decision on Stó:lō fishers. Both Ken Malloway and Lester Ned contend that the treaty language contributing to the court ruling affording only a moderate living to Mi'kmaq fishers is inconsistent with Stó:lō way of life.

Discussion

In spite of the law, Stó:lō fishers have sold their catch. This phrase was repeated to me by nearly every fisher with whom I spoke. The local newspapers periodically reported "Tons of Seizures" and sting operations launched to uncover the black market trade in salmon (see figure 5). It was reported that in one season Chilliwack fisheries officers seized approximately eight tons of salmon valued at about $60,000, plus close to 400 illegal nets and several outboard motors, boats, cars and trucks. As noted in previous sections, in past years, fisheries officers attempted to crack down on the illegal sale of fish caught under the Indian Food Fishing license which prior to 1992 was, the only license available to Native peoples for fishing above Mission Bridge where the Stó:lō reserves are located. In some years as many as 160 charges were laid against more than 60 individuals. Fines for those charges were sometimes as high as $5,000 plus the forfeiture of a vehicle. On top of having to pay fines and forfeit vehicles, fishermen also faced the loss of their food fishing license. In

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These fish were among a load of illegally caught salmon which were seized by federal officers with the Ministry of Fisheries and Oceans during October. Charges have been laid and the cases are pending in Chilliwack Provincial Court.
1992, the legal right to sell fish that Ken Malloway had lobbied for as a teenager, was realized, albeit in a very restricted fashion. Stó:lō "commercial fishers" were able to sell their catch without the fears of the past.

The opportunity offered under the sale agreement allowed fishers such as Ken Malloway and Lester Ned to acquire substantial amounts of capital for reinvestment in upgrading their boats and other equipment. It was during the sale years from 1992-1997 that large sums of money were made by some Stó:lō fishers. Notes, Ken Malloway, in more than one of our many conversations, this accumulation of wealth was not new to the Stó:lō. Suttles (1974, 1987) in his examination of Coast Salish social organization noted that Coast Salish society resembled an inverted pear in regards to class division, with most of the population falling into the upper class. In his conversation with me regarding Stó:lō society and its class system, Ken Malloway described the system as a bit more complex than that, mirroring somewhat the present day, larger Canadian society. There was an upper class, middle class, lower class/slave class. Ken Malloway noted that mobility from middle/lower class was possible through the accumulation of wealth. As he explained to me, extraordinary fishing ability afforded one method of ascension to a higher class. However, this could be a bit problematic in that lower class individuals were designated as such because

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68One such fisher, who is referred to in his community as a commercial fisherman, very politely refused my request for a formal interview. However I did observe his participation in a sales fishery, lending him my cell phone so that he could assemble his crew. My information about his capital investment and fishing practices comes from Ken Malloway as well as my own observation. Ken told me that he and this fisher "seem to be staying head to head as far as size and capability of boats and motors. Each of us upgrading very soon after the other."
“they did not know their past or family” and hence had no connection to the rights afforded by family connections to resources. Nevertheless, the point Ken Malloway was striving to make was that wealth, specifically the concentration of wealth in the hands of a few, was indeed a part of Stó:lō social order. He gave as an example his uncle Frank Malloway’s Halkomelem name, which means “one who gives big potlatches.” According to Ken Malloway this name, going back 1000 years, demonstrates the fact that “obviously some Chilliwack people were rich.” Bierwert, writing on the accumulation of wealth by some Stó:lō fishers, notes that roughly 10 percent of the fishers took about 40 percent of the catch (1997:252). Based on my observations I would say that her ratio holds true. However I contend that her ratio also holds true for non sales years as well.

Not all Stó:lō fish at the same level of intensity. While the initiation of a legal sale arrangement for Indian caught salmon did bring an additional 800 fishers to the river, many of these fishers were new to the river fishery and would not be expected to factor into a high income cohort.

This notion of the accumulation of wealth as anthama to Stó:lō social order is a theme present in discussions of accumulation of wealth by some Stó:lō fishers as well as those outside the Stó:lō community. These discussions hinged on the definition of ‘communal right’ it was set out in the language of Sparrow as well as in the language

69 Discussion persists regarding the fact that some examinations of Coast Salish society debate the fact that ‘big’ potlatches were held. I contend that ‘big’ is in the eye of the [cultural] beholder and such discussions reflect the differing accounts that can be obtained when interviewing various levels of social strata.

70 “sales years” refers to the years in which a negotiated agreement between Stó:lō and Fisheries and Oceans has been signed allowing for the legal sale of Indian caught salmon.
incorporated in the individual sales agreements negotiated each year. Central to this argument is that the issuance of so called communal licenses was to each Band. Based on that argument, the issuance of a "communal license" dictated that the catch or subsequent profits generated from the catch belonged to the band as a whole rather than the individual and that fishers had an obligation to insure that all Band members shared in that profit. According to Ken Malloway, while some contended that the communal right meant everyone was to have an equal share, that notion was not consistent with the Stó:lō past. "He went on to comment that, "Everyone has equal opportunity, but some fish harder than others and some have better fishing spots. We are not communists." I believe this particular point of view regarding the communal disposition of fish and profits stems from a number of things, but most importantly from the understanding of what should constitute an "Indian fishery" stemming from regulation in the 1880 that separated the social and economic components of the Stó:lō fishery.

Going back to Bierwert's example of wealth accumulation through the PSA, she describes the large sums of money made by one fisherman as a result of the PSA fishery. She talks of the fisherman who, "made over $30,000 one weekend handling over a dozen nets - and everyone knew about it. That same weekend, the man bought a new minivan, a new boat and outboard, and sent his family on a shopping spree for new clothes" (1997:252). While Bierwert did not identify the fisher, Ken Malloway acknowledged that she was probably speaking of him. Notes Ken Malloway, "I bought my wife a new van and took my kids to the Edmonton Mall. I bought her another van the next year, 1994. She's still driving that one. It's ten years old." He went on to
comment on the perception of his wealth within the community, simply stating, "You've seen my truck, it's a piece of shit."

When I asked Ken Malloway how many nets he fished, he snidely remarked, "Well if you believe the rumors, 23," explaining that he would, on occasion fish for other family members or check their nets, leading to the rumors of excessive fishing. When considered in the context of a family fishery, the prospect for large cash hauls must be viewed in a different light. As explained to me by Ken Malloway, "On an exceptional weekend - good year, good allocation - my brother Melvin may make $70,000. But you have to remember, several family members are involved and the money generated from the fishery is divided among the family members." Continuing with his example, Ken Malloway further notes, "Melvin's boat launch resembles a village, our family is so large." While Ken Malloway's family crew may be smaller than his brother Melvin Malloway's, expenses in the form of gas, lodging and food for crew members must also be factored into the bottom line when calculating real income from the sale fishery.

Bierwert observes that the disparity in profit-making in the Fraser River sales fishery is characteristic of that of other Native commercial fisheries in the Northwest (1997). Boxberger describes the disparity evident in the Lummi fishery in his examination of Lummi participation in the Pacific coast salmon fishery (1989). As notes

71In 1996, Ken Malloway found himself in Provincial Court facing three charges of fishing more than one additional net on three different occasions during the 1995 chinook season. As noted in the Progress article, Native fishermen are allowed to fish one additional net other than their own, providing they have permission from the other license holder. Chilliwack Progress, Wednesday, August 7, 1996. When I asked Ken Malloway about this, he told me it was an attempt on DFO's part to discredit him and that other similarly frivolous charges were laid against the other canyon highliners. This charge and those laid against the other highliners were dismissed two days before each of the scheduled court dates.
Boxberger, the result of the Boldt decision, has been the over-capitalization of the treaty-tribe fishing fleet (1989, 1993). This is evidenced by the post-1974 build-up of the Lummi fleet.

In 1974 thirty-five to forty Lummis engaged in gill-netting with small skiffs on or near the reservation. Two Lummis operated seine vessels. By 1985 the Lummi were the strongest fishing tribe in western Washington, taking, in some years, close to half the entire treaty allocation. The present Lummi purse seine fleet consists of vessels ranging in cost from $100,000 to $750,000 U.S. (1993:9)

As in the case of the Lummi, access to capital and capital investment in boats and machinery does indeed make a big difference in potential yield, particularly in the canyon fishery from where two-thirds of the Stó:lō catch comes.

While parallels can be drawn between the Lummi and Stó:lō fisheries regarding access to capital and disparity in profit making, a significant difference is noted between the two fisheries in regard to the level of capital investments. In the case of the Lummi, access to capital resulted in the over capitalization that occurred in the wake of the Boldt decision due to what was perceived as a guaranteed allotment of fish. While Boxberger (1993) alluded to the prospect of similar over-capitalization within the Stó:lō fishery following the Sparrow ruling, such over-capitalization has not occurred in regard to the Stó:lō fishers above the Mission Bridge. The uncertainty of the continuation of a sale fishery has worked to keep capital expenditures in check, however the primary reason for the lack of over capitalization in the Stó:lō fishery was

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72 Even though he actually fishes just below the Mission Bridge, Lester Ned is from a reserve located above the bridge. His access to the area just below the bridge is explained in more detail in this chapter. Native fishing below the bridge may well fall into a category more closely paralleling what Boxberger described regarding the Lummi fishery.
the scale and structure of the fishery.

Bierwert describes the significant difference in the structure of the commercial fishery at the mouth of the Fraser and the one conducted in the upper reaches of the river. I observed boats ranging in length from 14 feet to 20 feet, with the exception of Lester Ned’s gillnetter which operates just below the Mission Bridge. Additional methods that I observed included pole nets set from the side of the canyon and set nets put in place by two individuals in a canoe. Therefore, my observations of Stó:lō fishing revealed the same findings as Bierwert’s; that while the capital expenditures involved in upriver fishing were significant for most Stó:lō fishers such as Ken Malloway and the other canyon highliners, “the Stó:lō fishing ‘fleet’ operated on its proceeds rather than ahead of them” (Bierwert 1999:262). Stó:lō fishers such as Ken Malloway remain very aware of the bottom line costs, those costs including the costs related to arrests for violations. Aside from Lester Ned’s expansion of his processing facility for which he borrowed $25,000, most often the largest capital expenditures for Stó:lō fishers involved the replacement of green plastic trash bags with the hard plastic containers or ‘totes’ required by health codes in the wake of the Pilot Sale program in 1992. These containers were quite large and notes Bierwert, “subscribing to the demands of health codes could cost as much as $300 for a container” (1999:250).

As Boxberger notes, the Lummis were as much a part of the larger capitalist economy before the Boldt decision as they were afterward (1989, reprinted 2000: 178). In 1992 newspapers reporting on the newly instituted Pilot Sale Arrangement, heralded the beginning of Native industry. But for the Stó:lō that industry as well as participation in the larger capitalist economy has long been a part of Stó:lō life. Historical records
describe Stó:lō fishers as entrepreneurs, initiating trade relations with the Hudson’s Bay post at Fort Langley long before industrial canning reached the Fraser. That history is not lost on Ken Malloway and Lester Ned. Both refer to this early business relationship with HBC when they talk of the importance of a Stó:lō commercial salmon fishery. Stó:lō fishers such as Ken Malloway and the other canyon highliners as well as Lester Ned have always sold their catch even in the pre-PSA years. Long standing supplier and customer relations have existed for several generations, quite often being ‘passed down’ through the family. In her chapter regarding the Indian fishery, Beirwert discusses the black market in Indian caught salmon that existed as well as the informal economy that existed surrounding the sale of Indian caught salmon. Mentioned are the long standing agreements between buyers and seller, arrangements that were often handed down within the family. Indian fishers had their regular customers (1999:244).

As the debate rages within the larger Canadian commercial fishing economy as to the place of an in-river, Aboriginal commercial fishery, Ken Malloway and Lester Ned continue to seek to make a living as fishermen; as participants in the larger society in which they find themselves by relying on the traditions of the smaller Stó:lō society to which they belong. As in the case of the Lummi fishers, the perception of expanded access to the fishery, Ken Malloway through his large kin network and corresponding access to fishing sites and Lester Ned via his Indian commercial license and access to the industrial fishery, compounds a perception of wealth accumulation through a "legal sale" fishery that some claim is not traditional Stó:lō practice. Emerging are two distinct dialogues: one within the smaller Stó:lō society juxtaposing tradition and participation in a legally sanctioned fishery; the other between Stó:lō fishers and the larger society
offering protected economic opportunities.

Unlike the Lummi, however, the pre-PSA Stó:lō fishing economy existed in the shadows of the law. Notes Bierwert, this outlaw fishing had a structured economy and polity, with boundaries defined in hotly contested practice (1999:243). However hotly contested the practice, its connection to the larger economy cannot be overlooked. Stó:lō fishers such as Ken Malloway and Lester Ned have made a living as commercial fishers in the pre-PSA years. As Ken Malloway explained to me, it is the desire to participate in the larger economy without the fear of arrest and the loss of vehicles and equipment that has contributed in part to his fight for a in-river commercial fishery. Participation in legally sanctioned fisheries, or outside of the shadows, places Stó:lō fishers such as Ken Malloway and Lester Ned squarely within the larger economy and the security of its structure and polity, while allowing them to also contribute to the smaller Stó:lō economy and it's structure and polity; tradition. Additionally, participation in legally sanctioned fisheries locates Stó:lō fishers in a space between tradition and regulation; affirming the Aboriginal right to fish through participation in two economies. For Ken Malloway, Lester Ned and other Stó:lō fishers the action of fishing is not singly defined by the particular license or conditions under which fishing is practiced. The practice of fishing conducted within the confines of the law does not deny the relevance of the practice as it contributes to the act of resistance any more than participation in the hotly contested practice of outlaw fishing defines the conditions of resistance. In short resistance and livelihood become two sides of the same coin; inseparable and joined by tradition.

What is observed is the shifting of the conditions under which resistance,
rebellion and agency are manifest and how they are realized in connection with Stó:lō tradition and social identity when viewed as part of an emerging history. In short what is observed is the reproduction of culture. As Smith notes, acts of resistance and rebellion cannot be viewed as outside the creation of culture or dynamism of tradition. According to Smith, these acts must be viewed as a mechanism of cultural reproduction or more specifically the protection of a livelihood which is interconnected with a social identity and must be viewed in connection with the specific history and economy as well as within the context of a global history and economy. Therefore as Sider notes, “the fundamental language of these confrontational and incorporative dialogues is not found in words, or even symbols. It is, rather, in the domain of social organization, in which words and symbols are contextualized in a struggle to harness emergent differentiation or, from below, to develop and re-develop autonomy” (1987:22).
Chapter Seven: Fishing For Themselves.....Still: Conclusion

“The fishery is what makes us Stó:lō. The fishery has always been important to us. Archaeologists have demonstrated, through radio-carbon dating and other scientific methods, that our ancestors have been fishing in the Fraser Valley for nearly ten thousand years. That’s five hundred generations. In that time, we’ve become attached to our fish. Salmon are part of who we are. And in more ways than one... We aren’t taking more fish than we used to. In fact, we’re taking an awful lot less.” (Grand Chief Archie Charles from Seabird Island to the Chilliwack Progress, Wednesday July 3, 1996)

Stó:lō fishers have been fighting governmental interference into their way of life for more than a century. This thesis has addressed that fight by examining specific actions on the part of Stó:lō fishers within a context of accommodation and resistance.

While approaches rooted in processual analysis as well as action theory and dependency theory models contribute significantly to a meaningful framework for my examination of accommodation and resistance, I push past the bounds of these approaches and models that focus on adaptation/integration and the overwhelming experience of external factors, relying instead on an approach that focuses on Stó:lō fishers as active agents in the production of their history and reproduction of their culture within the context of the larger dominant history. Toward that end, I have provided a historically situated examination of three separate and distinct responses to fisheries regulation on the part of a peoples identifying themselves as Stó:lō - a people with a common heritage, common mythology and ritual - a people among whom social and economic ties are established across community boundaries through marriage.

The responses I have identified as acts of resistance include: the participation in direct acts of often militant protest on the part of the Cheam Band; the initiation of a justice diversion program the by Seabird Island Band; and the participation in legal sales
fisheries conducted under the auspices of negotiated agreements or government licensing requirements.

Stó:lō fishing takes place within a space bounded by tradition and state regulation. Through my selection of three specific responses to fisheries regulation I have juxtaposed what can be seen as simultaneously converging and diverging acts of resistance and accommodation operating within that space. By way of my examination of these acts, I have demonstrated that agency is manifest in resistance and accommodation and is not limited to one single response to regulation. While I maintain that the predominate response to fisheries regulation is simply to go fishing, by focusing on three differing and high profile responses to regulation, I have demonstrated that the Stó:lō responses to regulation, while varied, represent more than a shared ideology; but a common material and meaningful framework rooted in tradition for living through, talking about, and acting upon social orders characterized by domination.

It was in 1879 that a general Fishery Regulation for Canada was adopted which prohibited salmon fishing without a Department of Marine Fisheries lease or license. By 1888 new regulations were implemented that would contain more comprehensive controls over salmon fishing. As Native peoples became increasingly alienated from their land and resources, numerous other steps were taken to alienate them from their culture as well. Provisions added to the Indian Act in 1927 outlawed Native winter ceremonies and potlatches in an attempt to further strip Native peoples of their culture and way of life, forcing them to rely on available wage labor jobs rather than their customary forms of provisioning themselves. Another key component in the hegemonic
process that followed in the wake of increased white settlement was the residential school system whereby Aboriginal children were removed from their homes during the school year and placed in white-run boarding schools. The residential school experience was one core instrument in the government's attempt to assimilate Aboriginal peoples and children placed in the residential schools were separated from cultural practices and foods.

According to Sider (1997), experience is social and relational; not only socially formed and continually shaped but also naming the major arena for chosen and unavoidable struggles of all forms and processes of differentiation. In the case of the Stó:lō, that arena is the fishery. I have revealed that from and against the Stó:lō's experience in, and around the fishery, agency is manifest and in the case of the Stó:lō differentiation is revealed. Consequently, I have brought into focus the historical moments of heightened resistance; that space where resistance and accommodation blur, history is produced, culture is reproduced and identities emerge. The particular responses on which I have focused provide insight not only into a fishery fractured by the regulations of the 1880s, but also into the varying ways through which Stó:lō fishers have asserted their Aboriginal right to fish.

Additionally, I have examined the social relations within the smaller Stó:lō collective as well as between the Stó:lō and the larger Canadian state; linking agency with identity. The three responses examined in this work reflect not only varying expressions of agency, but also the varying ways by which Stó:lō fishers wish to be identified. These identities arise from (and against) the experiences of the residential school system, the regulatory system that essentially made them outlaw fishers and the
economic system that some seem willing to exploit as a means of garnering 'legitimate' capital. I have described in detail how the emerging identities reflect particular agendas as regards the salmon fishery. Consequently I have revealed that identities such as the original commercial fishers, warriors on the water and guardians of the resource reflect the depth of the connection between Stó:lō responses to regulation and Stó:lō history and tradition.

Stó:lō fishers have consistently protested government interference into their way of life. While those actions or responses have taken varying forms, all are purported to be rooted in tradition. Based on my examination of agency as manifest in the Stó:lō fishery, I have demonstrated that for the Stó:lō, resistance is linked to a traditional past as defined and redefined by the fishers themselves. To say the Stó:lō fish and utilize the salmon resource as they did in the past, more particularly the pre-contact past, is at the same time, true and misleading. Such a statement assumes a static relationship with the salmon resource as well as with the micro and macro economies in which the Stó:lō find themselves. Additionally, such a statement obscures the internal differences as well as the varying needs of Stó:lō fishers. A century of intensive regulation greatly altered the relationship between the Stó:lō and the salmon resource; the Stó:lō and their own people and the Stó:lō and the larger society in which they find themselves.

However, such a statement does link Stó:lō fishers to their past; a past that is finding use as a way of understanding and explaining the present as expressed through a sometimes constructed past. Stó:lō fishers have told me that their responses to fisheries regulation are rooted in tradition. For Stó:lō fishers tradition has become a means of justifying the present through remembering the past; a way of interpreting the
past according to the needs of the present (Mauzé 1997). The past becomes a succession of answers to questions about the present; taking on the status of an always correct answer to the questions asked (Mauzé 1997:6-7). To understand what constitutes the past, I have identified and described the outside forces that direct and redirect Stó:lō fishing practices; as well as the internal forces shaping their responses to those forces that have become a part of Stó:lō history.

Bound by a history of regulation, Stó:lō fishers continue to fish, many of them illegally, while protesting government interference into their way of life. Whether exercised collectively around acknowledged community leaders; liminally around notions of harmony; or independently around the simple action of maintaining a livelihood, these responses discussed in this thesis are rooted in constructions and reconstructions of tradition. As Sider (1993) notes, it is necessary to look closely at the forms of social relations to which the word tradition refers, relations he contends, that often turn out to express claims for autonomy or partial autonomy in the midst of poverty and powerlessness much more than they express continuity with a real or imagined past. As a part of my discussion, I have demonstrated that the responses on the part of Stó:lō fishers, responses which they contend are rooted in tradition, do indeed represent attempts to regain some measure of autonomy over the river and its salmon resources more so than a continuity with a real or imagined past.

By the late 1880s Indians were being seen as a major obstacle to cannery profits and fisheries officials were pressed by cannery owners to introduce new regulations to license the industrial fishery. The Indian fishery had already been designated as strictly a ‘food fishery’ by 1888, when a wave of regulation between 1894 and 1914
outlawed specific, important technologies such as trawling, drifting or bag-netting; important methods below the canyon. Traps and weirs were also outlawed in this wave of regulation as was the practice of ‘torchlighting’ (fishing at night). Set gill nets became the only legal technique between the delta and the canyon areas. Stó:lō people faced continued restrictions on when and how they could fish. From as early as 1883, the Stó:lō have protested federal interference in their fishery and way of life. Throughout the late 19th and early 20th century protests continued as government regulation heightened. These struggles would continue throughout the 20th century and into the 21st century. Newspaper accounts from the 1960s, 1970s, 1980s and 1990s relate acts of defiance on the part of the Stó:lō, those acts often taking the form of organized rebellion or simply fishing to feed their families. Gavin Smith (1989, 1999) tells us that such actions, whether organized acts of rebellion or actions directly connected to making a living, cannot be viewed outside of the specific history of local and global economies connected to that history; as in the case of the Stó:lō such acts should be viewed within the context of the forces acting directly and indirectly on Stó:lō fishers. By relying on a historically situated examination of the Stó:lō fishery, I have answered Gavin Smith’s call for historical realism.

Arising from the division of the salmon fishery in 1888 that effectively removed Stó:lō fishers from the larger economy was an overall perception that grew within the industrial fishery regarding the place of Aboriginal fishers in the salmon fishery. This perception was made clear in a 1944 fisheries report:

One portion of the total run consists of the valuable commercial fishery and also the relatively less important Indian fishery... However, as it becomes necessary to give the small and nearly extinct race the protection required for their rehabilitation....(Howard 1944:65)
However, more troubling than the mere existence of this philosophy is the fact that it has shaped the nearly 120 year old relationship between Stó:lō fishers and the larger Canadian economy and remains evident today. Stó:lō fishers continue to do battle with fishers in the industrial and recreational sectors. Industrial fishers have painted a picture of thieving Indians responsible for millions of missing fish with anglers conjuring up a more maniacal portrait of Indians armed to the teeth, lying low on their reserve. Confounding the problem is the fact that the same notions regarding the fishery held by the industrial fishing community permeate the larger Stó:lō community as fishers from both communities chase a dwindling resource.

A century of regulation has altered the understanding as well as the actions of Aboriginal peoples as regards the fishery. As a part of my examination of the Stó:lō fishery, I have identified the diverging agendas as regards the salmon resource. As Stó:lō fishers struggle with ever increasing river closures in the name of conservation, their unified front in the fight for an Aboriginal right to fish conceals the varying needs within the smaller Stó:lō economies as manifest in salmon fishery. Pressure from without has generated pressure from within, placing acts of resistance in opposition: privileging one over another, as in the case of the contentious relationship that exists in the canyon fishery:

With commercial fishing and drying, the one that is older, that is more culturally intact should be prioritized. (Butler 1998:13)

According to Butler, the wind dry fishery has come to be considered, for some, as ‘more traditional’ and ‘more culturally intact’ than other fishing activities, particularly the commercial sale of the fresh catch (1998:13). In this case hegemony is embraced; a specific view of the fishery is acknowledged; a ‘useless’ past is denied and a history
overlooked in order to fulfill the needs of one fishing family over another in the face of increasing regulation and a dwindling resource. During the summer of 1998 this situation was brought into sharp relief when the overt act of illegal fishing in support of an Aboriginal right to fish collided with the simple act of feeding one's family. After 48 hours of fishing the river was closed to Indian fishing due of conservation concerns regarding the early Stuart sockeye run. Fishers at Cheam actively fished during the closure 'forcing' DFO to extend the closure because of the illegal fishing. Wind dry fishers in the canyon called for the arrest their neighbors and cousins who were fishing in support of the Aboriginal right to fish.

Case Studies

In the three case studies comprising this examination, I have identified not only the diverging needs as regards the salmon resources, but also diverging approaches to the tradition of fishing; approaches often in opposition. Sider describes history as fraught with breaks, disjunctions, punctuated by dramatic incidents and episodes, or in Sider's words “far from seamless or running unbroken from past to present” (1993:10). It is along these fissures that identity is created, history is produced and human agency revealed. It is this relationship between the production history and human agency that is central to my examination of the actions and reactions of the Stó:lō fishers and how those action and reactions reflect different responses to government authority. I began my discussion of Stó:lō responses to regulation by focusing on the actions and reactions of the Cheam community. I have chronicled Cheam's turbulent relationship with federal fisheries authorities as played out in the local press. More specifically I have demonstrated that direct action on the part of the Cheam has served to create
Cheam's persona as warriors on the water and has served to support other Stó:lō fishers in their Aboriginal right to fish.

The Aboriginal right to fish has been hard-fought by all the families in the Cheam community. The violent incident at Gill Bay down river from the Cheam reserve in 1986 set the tone for the relationship between the Cheam band and federal Fisheries authorities over the next two decades. As DFO continued to deny the regular Thursday through Sunday fishing on the early Stuart run, violence escalated to near warlike conditions by the summer of 1999. News headlines of blockades and photographs of camouflaged-clad Natives standing watch on the beach contributed to Cheam’s identity as “warriors on the water.” The wars of the summer of 1999 represented a culmination of the ongoing battles between Native fishers and the federal government over the Aboriginal right to fish. Because the battle lines have been drawn around the Aboriginal right to fish, or more particularly, the infringement of that right by the government, acts of direct action on the part of Cheam fishers work to further establish their identity as fisher people.

Mauzé notes that tradition has become a metaphor for identity (1997). Cheam fishers will tell you they are following tradition when exercising their Aboriginal right to fish. For decades Cheam fishers allowed fisheries authorities to dictate when and how they would fish - in short breaking from the traditional practice of following the guidance of the community Siyá:m. But Cheam fishers now say they have returned to a traditional practice of relying on knowledgeable community leaders to determine when they would fish. However, that ‘traditional knowledge' now comes as much from forecasts from DFO biologists and other bureaucracies created to monitor and predict
fish movement as well as from leaders within the community. While recorded oral histories of Cheam elders reflect a past when people could fish whenever they wanted, it is a past that includes limits and restrictions such as the Thursdays through Sunday fishing schedule that has come to be the norm; a past that is now used to support an Aboriginal right to fish. It was when the Thursday to Sunday schedule was disrupted that violence broke out on the water. Eventually the courtroom would replace the river as the battleground, and victories on this new battleground would make their way into the tradition of fishing. Cheam fishers maintain that they have an Aboriginal right to fish not only because their ancestors fished all five species of salmon in the Fraser, but also because the Supreme Court of Canada and the Canadian constitution affirm that an Aboriginal right to fish exists. While tradition has become a means of justifying the present through the past, I have shown that the past on which the Cheam rely is ever closer to the present.

In regard to the specific response on the part of the Seabird Island community, I have demonstrated that the Seabird Island Justice Protocol agreement is indeed an act of resistance as shaped by that community's unique history in addition to the supra-traditional fishery so closely associated with the Seabird Island band. On the surface the community's response appears to be in direct opposition to the affirmation of the Aboriginal right to fish as expressed in the direct action responses on the part of the Cheam community. However, Seabird Island community leaders, as well as other Stó:lō leaders, maintain that the steps they have taken in working out an agreement with Fisheries and Oceans and the Department of Justice, Canada in regard to fisheries violations is as much an affirmation of the Aboriginal right to fish as Cheam's
acts of defiance. According to the individual directly responsible for initiating the Justice Protocol, this move offered the Seabird Island band an opportunity to show the federal government that the community could police itself in regard to the salmon fishery by relying on past practices of Aboriginal justice. Heralded by some as the foundation to a new relationship, the Seabird Island Justice Protocol Agreement is said to incorporate the concept of tradition as it relates to Seabird Island’s recognition of the importance of the collective approach to the fishery. An agreement of another sort, Seabird Island’s Justice Protocol agreement seeks to lessen the burden of regulation on community fishers by providing for participation in a diversion program which removes the responsibility of adjudication from the formal court system; transferring it to an established Aboriginal justice program. And as with the Cheam band, Seabird Island leaders maintain that their specific response to fisheries regulation is rooted in the traditional past; a past I maintain, is bound up in a tradition that reflects the unique history of the community and connects them with wind-dry fishery that is so closely associated with them.

The Seabird Island community was created in 1879, when families from the surrounding Stó:lō and N’laka’pamux communities along the Fraser River were relocated to the area in an attempt to promote agricultural pursuits among the Native peoples. Until the Seabird Island band was created in 1958, the land was held in common by the six upriver bands relocated to the area. The community has since grown to be the largest of the Stó:lō reserves in land mass and population. Additionally, the Seabird Island band administers many of its own social programs directly; many of the same programs administered by the larger Stó:lō Nation for
remaining affiliated bands. I argue that all of these factors contribute to a slightly different relationship between the Seabird Island band and the local, provincial and federal governmental bodies than those of the other Stó:lō bands, paving a way for the implementation of the Justice Protocol agreement.

As with other Stó:lō communities, fishing has always been important to the way of life of the Seabird Island community. The importance of fishing was reaffirmed by the members of the community with whom I spoke. Many of the present day Fraser canyon wind-dry fishing spots are owned by members of the Seabird Island community. In recent years the wind-dry fishery has come to be considered a hallmark of traditional Stó:lō life and the dry-rack families the keepers of that tradition. My visit to the Charles family canyon dry-rack camp revealed, not only the importance of fishing to the community, but also a fishery in crisis. Usually arriving at his camp the first of July to begin fishing in time to utilize the canyon winds, my visit, nearly 20 days into the month, revealed that the Charles family's dry-rack contained few fish with limited time available before canyon conditions were no longer right for drying. Grand Chief Charles talked of the restrictions on the fishery in the name of conservation; restrictions that have continued to result in the loss of winter stores.

According to those involved in negotiating the agreement, the signing of the protocol is an attempt at preserving the salmon resource for future generations by relying on traditional practices. This notion closely mirrors the supra traditional approach reflected in the dry-rack licenses negotiated between Stó:lō fishers and DFO. Specifically noted in the agreement is the fact that all would be held accountable in conserving the resource as a part of a collective, traditional approach to the fishery. In
an effort to accomplish that goal, the Protocol agreement provides for the diversion of fisheries related offenses away from the courts and into the realm of Aboriginal justice practices. In the case of the Seabird Island agreement, cases were to be diverted to the Stó:lō Nations justice program established in 2000 - Qwi:qwelstóm. In my discussion of the implementation of the agreement, I have described the Stó:lō program designated to handle individual diversions cases electing to proceed under the agreement.

*Qwi:qwelstóm* is the Halq’eméylem word that best describes “justice” according to Stó:lō worldview and is described as being based upon traditional Stó:lō forms of dispute settlement whereby affected family and community members are called together to discuss what has happened and to reach an agreement on how to best repair the harm and restore balance and harmony to the disrupted relationship. While at this time the only option available to those wishing to have their cases diverted from the ‘white man’s court,’ I call into question the usefulness of system that has, as its mission, the bringing about of a resolution such as to prevent recurrence of the offense when considering the outcome of case that involves the Aboriginal right to fish. Given the situation today regarding the fishery - limits on fishing; frequent closures and the inability to participate in legal sales fisheries in that Seabird Island refuses to sign the sales agreements that would provide an opportunity for Seabird Island fishers to legally sell their salmon - how can there be resolution? While some in the Seabird community view the use the *Qwi:qwelstóm* program as an affirmation of Aboriginal rights; “a way of showing we can take care of things ourselves,” others remain steadfast in their belief that participation in the newly implemented justice program is an admission of guilt for
breaking the white man's law; a law not accepted within the context of the Aboriginal right to fish. In the summer of 2002, I posed that question to Stó:lō leader Grand Chief Clarence Kat Pennier, "Is participation in the diverison program an acceptance of DFO's authority over the fishery?"

The justice protocol signed by Seabird Island is said to represent an adoption of traditional practices as a means of dealing with fisheries regulations. As a part of his examination of Aboriginal justice programs, Bruce Miller points out how colonial processes have transformed and distorted the politics of indigenous communities, including the ways in which community members understand their own prior practices of justice (2001:201). Additionally, in her discussion of indigenous justice programs rooted in notions of tradition and harmony, Laura Nader (1990) notes how these ideologies have been shaped by the colonial encounter. According to Nader, they reflect and mask the internal struggles arising as a consequence. In the case of the Seabird Island agreement, resolution is sought from inside the community through an idealized past. I contend that Miller and Nader's observation of Aboriginal justice programs is directly on point when applying their discussion of an idealized past to an examination of the Seabird Island Protocol Agreement. Through the protocol agreement, the community is seeking to establish a partnership with the authority that, for the past century and a half, has had ultimate control over the past, and continues, regardless of the presence of any agreement, to control the present.

There isn't much in the experiences between the Native peoples of British Columbia and the Federal and Provincial governments on which to hang one's star. In the case of Seabird Island, a past comprised of assimilation programs, residential
schools, increased fisheries regulations and economic marginalization is being set aside as part and parcel of a grand vision. By examining the connection between the unique history of the Seabird Island community in connection with the fishery so closely affiliated with that community, I have revealed that the Justice Protocol agreement works to establish Seabird Island as the ultimate guardian of their salmon fishery as part of that grand vision and that by embracing an idealized past, one fishery is privileged over another based on a conceptualization that one is more traditional or more cultural. This conceptualization arises out of a larger colonial history that long ago separated the social and economic aspects of the Aboriginal salmon fishery as well as a need to maintain a way of life within the context of a system that provides little option for any other action. By way of the protocol agreement, the Seabird Island community seeks to possibly preserve access to a resource in crisis by agreeing to work cooperatively to conserve that resource.

What was reiterated to me was the importance of the agreement in healing old wounds and establishing a partnership with the federal government; a way for the Seabird Island community to look after itself based on a traditionally recognized collective process with respect to conservation. This particular notion of conservation bound in tradition is specifically expressed in the language of the agreement. Embedded in that 'language' of tradition is also the notion of harmony and resolution and the reliance on a community based justice to achieve that harmony and resolution. Through my discussion of the Justice Protocol as it relates to a tradition of conservation of a resource, I have demonstrated that a connection exits, albeit subtle and nestled in the language of conservation, between the salmon resource and wind dry fishery so
closely associated with the Seabird Island community.

These are two of the responses to fisheries regulation on which I focused in this work. The third response, much as the first two, seeks to establish some measure of autonomy on the river. In an effort to describe yet another reaction to fisheries regulation, in my third case study I have discussed the Stó:lō commercial fishery as it has been conducted under the auspicious of sales agreements and commercial licensing. I focused on two Stó:lō fishers described as ‘highliners’ or ‘moneymakers’. By examining legal fishing as it relates to an opportunity make a living within a context of resistance and accommodation, I have demonstrated that participation in the Stó:lō commercial fishery, whether conducted outside the boundaries of the law or as part of legally negotiated sales agreements, represents a form of resistance when viewed in connection with Stó:lō tradition as well as a part of an emerging history. This relationship has been advanced in the courts (i.e. Vander Peet) when connections were made between selling salmon to a neighbor and bringing boat loads of salmon down to the saltry at Ft. Langely.

Numerous Stó:lō fishers with whom I spoke maintain that the Stó:lō were the first commercial fishers; a designation they claim is rooted in tradition and one they did not give up in the face of a century of regulation that worked to separate Stó:lō fishers from the economics of fishing. Fishers such as Ken Malloway who not only participate in the agreement fisheries, but push each year for their signature, challenge the notion that the agreements represent an infringement on the Aboriginal right to fish. While these agreements may set limits on the practice of fishing, the Aboriginal right to fish exists whether agreements are in place or not. These fishers also challenge the notion that
participation in sales agreements should be viewed as less than traditional. The practice of fishing conducted within the confines of the law does not deny the relevance of the practice as it contributes to the act of resistance any more than participation in the practice of outlaw fishing defines the conditions of resistance. As a part of my discussion of the legal sale of salmon I have demonstrated that for the Stó:lō resistance and livelihood represent two sides of the same coin; inseparable and joined by tradition.

There is no question that the initiation of the Pilot Sale fishery changed the face of the Fraser River salmon fishery as regards the industrial fishery as well as the Aboriginal fishery. Considering just the Aboriginal fishery, the number of 'licensed' fishers doubled immediately upon the implementation of the project as many who had not fished in the past flocked to the river in an effort to cash in on the right to sell their fish. And almost as immediately, fishers began to voice their concern over the increased pressure on the resource as well as the effects of over crowding on the water. This change has had specific ramifications when considering the contested arena of the canyon fishery. Wind-dry fishers expressed concern over the increased numbers of fishers and the potential effects on their particular fishery. However, long time canyon commercial fishers such as the Malloways maintain that it was about more than the money for them; it is about continuing the tradition of the Stó:lō as the original commercial fishers. While these fishers sold their catch prior to the initiation of the Pilot Sale program, it has been in their participation in the 'agreement' fisheries that has been called into question by other Stó:lō fishers.

As a part of my discussion of Stó:lō commercial fishers, I hold that connections
should be examined regarding a relationship between tradition and capital accumulation within the context of Sto:lo social order. I have revealed an existing perception among industrial fishers as well as Sto:lo fishers that maintains selling fish for capital accumulation has little place in the Sto:lo fishery; a perception arising from a past shaped by regulation and fueled by limited access to the resource. Sto:lo sell their fish. Many Sto:lo fishers will say that they have always sold their fish. However, I have demonstrated that it is not the act of selling, it is the specific context within which it is conducted - sale agreements and governmental licensing - that brings into play the notion that a capital accumulation fishery is less traditional; less cultural. Fishers such as Ken Malloway maintain that indeed, the notion of capital accumulation is embedded in Sto:lo culture and tradition. Ken Malloway gives as an example his uncle Frank’s [Malloway] Halq'emeyləm name, which means “one who gives big potlatches.” According to Ken, his Uncle Frank’s name goes back 1000 years and demonstrates the fact that “obviously some Chilliwack people were rich.”

In my discussion of Lester Ned’s participation in the industrial fishery, I have shown that whether agency is exercised within or outside of the system of law, connections to tradition are visible. Lester Ned, who jokingly refers to himself as a bona fide commercial fisherman because he holds an Indian A-1 commercial license, has a long history of participation in the advancement of Aboriginal fishing rights. Lester Ned will tell you that the Sto:lo have been fishing on the Fraser for at least 10,000 years and that, suddenly, in 1888 the federal government established the Indian Food Fishery, separating the social and economic aspects of the Sto:lo fishery. While Lester Ned’s entrepreneurial approach to the salmon fishery is clearly evident, fishing for
Lester Ned is very much a Stó:lō activity, integral to his identity as Stó:lō. I have demonstrated that fishing as a traditional practice is not singularly defined by the conditions under which the fishery is conducted, but rather also by how the individual fisherman identifies himself, especially through his place in the community and the fishery. Given these criteria, I contend that Lester Ned is indeed a Stó:lō fisherman whether fishing from his mechanized gillnet boat under his A-1 Indian commercial license or in his band's spot at Devil's Run.

As with the Cheam and Seabird Island communities, Stó:lō commercial fishers such as Ken Malloway and Lester Ned seek to gain some autonomy over the river through the traditional practice of fishing. Perceptions and mis-perceptions of wealth and access to the fishery have placed some Stó:lō fishers in the space between tradition and regulation. Ethnographic accounts and oral histories reflect a time when fishing was indeed bound by regulation, albeit from within Stó:lō society rather than from outside of it. As noted by Bierwert, fisheries regulations created a site of power and corporate enterprise at odds with the Canadian state as well as with other Stó:lō fishers as Stó:lō fishers continued to fish and sell their catch. I argue that the site of power described by Bierwert should be expanded to embrace participation in the legal sale of salmon under programs and opportunities made available via state regulation. Participation in the black market fishery intersects with participation in the legal fishery as the players in both are the same. Those fishers profiting in the black market are the same fishers profiting by participation in sales agreements. However, profiting in the latter seems to draw scorn from others in the Stó:lō community. Notes Bierwert, outlaw fishing as a practice came to be for some, a form of resistance to the repressive politics.
of the state (1997:245). I have demonstrated that participation in the legal sale of salmon represents its own form of resistance when viewed as a mechanism of cultural reproduction or more specifically the protection of a livelihood that is interconnected with a social identity.

What Follows...

According to Gavin Smith:

The productivity of culture increases at historical moments of heightened resistance and rebellion: increases because the valued components of culture are challenged, threatened from without, and so must be articulated within. And then, through this process, each participant constructs a means for identifying with or against each relevant component of culture. (1999:57)

Smith’s particular discussion of resistance has directly informed my examination of Stó:lō responses to fisheries regulation; responses that I have demonstrated to be acts of resistance within an historical context of colonial domination. In his discussion of rebellion in Peru, Smith notes that past studies focusing on rebellion and peasants’ revolutionary potential overlook how resistance is interlinked with development and development policies. Smith addresses this situation by carefully constructing the historical context surrounding peasant groups’ livelihoods and clearly illuminating how that historical context, development and development policies are linked to peasants’ livelihoods and acts of resistance and rebellion in the reproduction of culture. For the Stó:lō it has been development policies in the form of fisheries regulation that has provided the historical context surrounding the Stó:lō fishery as well as the context shaping the varying responses to that history.

More importantly, Smith stresses that it is essential to recognize [peasant] cultures as heterogenous, noting that the appearance of a homogeneous group
deriving their solidarity from their shared customs and traditions disguises the internal struggles and differences inherent in the colonial experience. While there exists an overarching Aboriginal narrative in regard to colonialism and domination among Aboriginal peoples of British Columbia, comprising that larger narrative are the smaller narratives that reflect the particular history and experiences arising from that larger history. For the Sto:lo, the appearance of a unified front by a homogeneous peoples disguises the differences arising from separate needs within the fishery as well as the external and internal struggles engaging the Sto:lo people. As a part of this study I have brought to light not only the separate needs, but also the differing conditions and experiences directing those needs. Additionally, I have not only revealed that a link exists between the histories of the individual Sto:lo communities and their specific responses to regulation, but I have engaged that history in my discussion of those responses on the part of Sto:lo fishers. Consequently, I have demonstrated that there are at least as many different Sto:lo fisheries at there are species of salmon.

A glimpse into the wind dry fishery is a glimpse into the Sto:lo way of life described by ethnographers such as Wilson Duff: families traveling to the canyon to fish; entire families congregating in camps to cut and hang sockeye from family racks as the canyon winds flow through the bright red strips. This is the picture that Bierwert juxtaposes with that of full totes of salmon ready to be deposited at DFO mandated landing sites; where shiny silver unprocessed sockeye are turned into hard cash. The red color so visible from the many racks along the river's edge remains hidden. A third picture of families fishing along the beach brings into view the transmission of knowledge from one generation to the next. All of these pictures reflect a Sto:lo way of
life; Stó:lō fishing. All are snapshots of tradition. All are snapshots of a life...lived.

Fishing is the essence of Stó:lō identity and life. The Stó:lō have fought to keep intact the social and economic aspects of their fishery. Fishing represents not only a livelihood - a way of making a living - but a life lived. In short it is as simple as one line on the page: "We're going fishing."
References

Abel, Kerry and Jean Friesen eds.

Abbottsford/Clearbrook Times

Abbottsford and Mission News

Aboriginal Fisheries Journal Newsletter of the BC Aboriginal Fisheries Commission.

Alfred, Gerald R.

Amoss, Pamela

Asch, Michael

Alexander, Geo. J
1938 The Commercial Salmon Fisheries of British Columbia. Victoria, British Columbia. Printed by Charles F. Banfield, Printer to the King’s Most Excellent Majesty.

Argue, A.W. Diana Campbell, P.A. Gee and M.P. Shepard
1990 Department of Fisheries and Oceans Records of Annual Salmon Harvest by

Bailey, Frederick G.

Barnett, H.G.

Barth, Fredrik

Bee, Robert L.

Bennett, Marilyn

Berringer, Patricia Ann

Bierwert, Crisca

Blomely, Nicholas

Boas, Franz
1895c Indian Myths and Legends from the North Pacific Coast of America. Translated from Verhandlumgen der Berliner Gesellschaft fur Anthropologie,


Borden, Charles

Bornstein, Avram S.

Boxberger, Daniel L.

1989 To Fish In Common: The Ethnohistory of Lummi Indian Salmon Fishing. Lincoln: University of Nebraska Press.


Brewer, Anthony

Brown, Kimberly Linkous and Caroline F. Butler

Butler, Caroline F.

Cail, Robert E.

227
Cameron, Laura  

Campbell, Blake A.  

Cardoso, F.H.  

Carl, G.C. and W.A. Clements  
1948 The Freshwater Fishes of British Columbia. Handbook No. 5, British Provincial Museum, Victoria, B.C.

Carlson, Keith Thor  

Carlson, Keith Thor, ed.  


Carlson, Keith and Sarah Eustace  

Carlson, Roy  

Carstens, Peter  

Chilliwack Progress  


1999 Warriors on the Water: As the Cheam band takes to the Fraser they have protection from the 'enemy.' Rick Colllins. Chilliwack Progress. August: A1.


1998 Cheam band members show no signs of following DFO restrictions. Sandra Thomas. Chilliwack Progress.


1996 Natives defiant in the wake of Supreme Court ruling: 'This is our country, this is our fish.' Chilliwack Progress. August.


1986 Fishing history for Chehalis Band. Chilliwack Progress, November.

1986 Natives want say in fish control. Chilliwack Progress, September.


Chilliwack Times

1993 BLOCKADE: RCMP make last ditch move to end protest. Chilliwack Times, September.

Chisholm, Brian, D.E. Nelson and H.P. Schwarz


Cohen, Fay G.

Cohen, Fay G. And Vivian Bowde

Cole, Douglas and Ira Chaikn

Comaroff, Jean

Codere, Helen

Copes, Parzival

Cranmer, Barb

Crey, Ernie

Crosby, Rev. Thomas
1907 Among the An-ko-me-hums or Flathead Tribes of Indians of the Pacific Coast. William Briggs, Dept of Agriculture, Toronto.

Culhane, Dara (Speck)

Cullingham, James and Ann Bromley
Denis, Claude

Department of Fisheries & Oceans

Dombrowski, Kirk
2001 *Against Culture: Development, Politics, and Religion in Indian Alaska.* Nebraska: University of Nebraska Press.

Dos Santos, F.
1970 *The Structure of Dependence.* American Economic Review LX.

Duff, Wilson
1965 *The Indian History of British Columbia, Volume 1 The Impact of the White Man.* Anthropology in British Columbia, Memoir No. 5, Provincial Museum of British Columbia, Victoria, B.C.

Dyck, Jos C.

Editorial

Elmendorf, W.W.

Elridge, Morley
Fisher, Robin

Firth, Raymond

Fladmark, Knut

Fluehr-Lobban, Carolyn H. Russell Bernard, ed.

Fort Langley Journal

Fournier, Suzanne and Ernie Crey

Frank, Andre Gunder

Frideres, James S.
1988 Native Peoples in Canada: Contemporary Conflicts. 3rd Ed. Toronto: Prentice-Hall, Canada.

Galloway, Brent

Gardiner Pinfold

Gibson, James R.

232

Gifford, Ferguson
1989 Indian Fishing Rights in British Columbia. Report prepared for Department of Fisheries and Oceans Canada and Department of Indian and Northern Affairs Canada.

Glavin, Terry

Globe & Mail

Gunther, E.

Handler, Richmond and Jocelyn Linnekin

Harkin, Michael
1997 The Heiltsuks: Dialogues of Culture and History on the Northwest Coast. Lincoln: University of Nebraska Press.

Harmon, Alexandra

Harris, Cole

Harris, Douglas C.
2001 Fish, Law and Colonialism: The Legal Capture of Salmon in British Columbia. Toronto: University of Toronto Press.

Hewes, Gordon W.

Hill-Tout, Charles


Hobsbawm, Eric and Terence Ranger, eds.

Howard, Gerald

Irvine, Miora

Jenness, Diamond

Johnson, Jeffrey

Jorgensen, Joseph

Kessing, Roger M.

Kew, J.E. Michael
Columbia Press.

Kew, J.E. Michael and Julian Griggs

Kew, J.E. Michael and Bruce G. Milller

Kulchyski, Peter
1999 In the Words of Elders: Aboriginal Cultures in Transition. Toronto: University of Toronto Press.

Kurtz, Donald V.

Lamb, W. Kaye

Leacock, Eleanor B.

LeClair R.

Lem, Winnie

Lerman, Norman H.

Linnekin, Jocelyn S.
Lyons, Cicely

Macdonald, A.L.

Maud, Ralph ed.

Mauzé, Marie

McDonald, James A.

McHalsie, Sonny

McIlwraith, Thomas

McMullen, Cindy

Meggs, Geoff

Menzies, Charles
Prentice Hall Allyn and Bacon Canada, Inc.


Miller, Bruce G.

Miller, Bruce G. and Daniel L. Boxberger

Miller, Bruce G. and Jen Pylypa

Miller, Jay

Mitchell, D.H.

Mohs, Gordon

237

Mooney, Kathleen

Morton, Jamie
1848 - 1858 Fort Langley, An Overview of the Operations of a Diversified Fur Trade Post.

Nader, Laura

Newell, Diane

Notzke, C.

Ong, Aihwa

Pacific Fisheries Think Tank

Pearse, Peter and Peter A. Larkin

Power, Melanie Deanne

Roseberry, William
1991 The Production of Culture in Local Rebellion In Golden Ages, Dark Ages:


1986 Culture and Class in Anthropology and History: A Newfoundland Illustration. New York: Cambridge University Press.


Smith, Linda Tuhiwai

Smith, Marian W.

Squelqwels Ye Stó:lo
2002 Dry Rack Discussion. p. 9

Stats Canada

Stó:lo Nation News

Stó:lo Tribal Council

Souther, Barbara C.

Suttles, Wayne
1958 Private Knowledge, Morality, and Social Class Among the Coast Salish. 
American Anthropologist, 60:497-507.
1955 Katzie Ethnographic Notes = Anthropology in British Columbia Memoir No. 2.

Suttles, Wayne and Barbara Lane
1990 Southern Coast Salish in Handbook of North American Indians: Vol. 7 

Teit, James

Tennant, Paul

The Province

Turner, Victor

Valley Times
1988 Crey files complain. Valley Times, August.

Vancouver Sun
1995 Commercial fishers tie up city traffic with nets to protest Aboriginal fishery. Vancouver Sun. September: A7
December: B3.

October.
August: A10.
1968 Indian says fish curb humiliating. Chief warns regulations to be ignored.

Wallerstein, Immanuel

Ware, Reuben

Wells, Oliver

Wolf, Eric R.