Committee on Resources
Subcommittee on Fisheries Conservation, Wildlife and Oceans

Witness Statement

TESTIMONY OF STEVE MOYER

VICE-PRESIDENT FOR CONSERVATION PROGRAMS

TROUT UNLIMITED

BEFORE THE

HOUSE SUBCOMMITTEE ON FISHERIES CONSERVATON, WILDLIFE AND OCEANS

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Mr. Chairman and Members of the Committee, I appreciate the opportunity to testify before this Committee. Trout Unlimited is a national organization dedicated to the conservation of trout and salmon and their habitats. We have over 100,000 members nationwide and and approximately 8,000 members in the Pacific Northwest and Alaska.

Trout Unlimited has long had an interest in the Pacific Salmon Treaty. Because salmon are highly migratory, many of the fish that originate in Idaho, Oregon and Washington rivers are caught in Canadian and Alaskan fisheries. Without a system to ensure the conservation and fair allocation of the allowable catch of fish that migrate between the two nations, the resource will inevitably suffer. Recognizing this, TU's Washington state council, the Northwest Steelhead and Salmon Council, was a strong advocate of the 1985 Treaty and has been deeply involved in its arcane processes ever since. We became quite concerned for the fish when negotiations under the treaty disintegrated in the early years of this decade. We became more alarmed as the disagreements grew into a full-fledged stalemate - complete with blockades of U.S. ferries and retaliatory fisheries.

In 1996, TU became directly involved in the negotiations between the two countries when Rick Applegate, at that time TU's West Coast Conservation Director, was chosen to head a group of Washington and Oregon tribal, commercial and recreational fishers in what came to be known as the "stakeholder" process. These fishers negotiated directly with counterparts from Canada - with the blessings of the governments of Canada and the U.S. - in an attempt to find a way out of the stalemate. While this effort made considerable progress, like other previous efforts to resolve the conflict, it ultimately failed.

In 1997, the President appointed Bill Ruckelshaus, a former board member of TU, to meet with Dr. David Strangway of Canada to make recommendations to the parties on resolving the impasse between the two parties. The Ruckelshaus-Strangway Report made a number of recommendations to resolve the stalemate between the two countries and an impassioned plea that failure to resolve the conflict would lead to a classic "tragedy of the commons."

In 1998, a group of grass roots advocates from Trout Unlimited and our sister organization, Trout Unlimited Canada, decided that the time had come for the two countries to set aside their differences and put the fish first. They agreed to attempt to develop a series of joint recommendations to resolve the stalemate. At a meeting in Merritt, British Columbia, conservation-minded anglers from both countries hammered out ten recommendations to the two parties that were included in a report entitled "Resolving the Pacific Salmon Treaty Stalemate" that was published in January of 1999 and presented to the Pacific Salmon Commission, Canadian Fisheries Minister David Anderson and the White House. Copies of that report have been made available to the Committee.

The recommendations included calls for reduced salmon harvest levels through license buyouts, a fairer allocation of

the salmon harvest between the United States and Canada, the employment of fishing techniques which reduce the number of salmon which are unintentionally caught and killed as well as recommendations for making the Pacific Salmon Commission more efficient and less subject to political influence by either the United States or Canada.

Like many others, we greeted the news of the agreement between the parties in June of 1999 with cautious optimism. We were obviously pleased that the agreement reflected many of the recommendations included in our report. We were concerned that some issues, like the management regime for coho, were left to later negotiations. Much depends on the commitment of the parties to implement the agreement wisely. In doing so, the parties need to make certain they do not repeat the mistakes of the past.

There were two fatal flaws in the original agreements under the Treaty. First, the parties obviously had different ideas as to the basic meaning of some of the concepts in the treaty. For example, Canada believed that the so-called "equity" principle in the Treaty meant that there would be a strict accounting of Canadian fish caught by U.S. fishers and U.S. fish caught by Canadian fishers and the accounts needed to be balanced. The U.S. view of equity was of a more flexible concept. Disputes over the meaning of the original agreement lay at the heart of the stalemate. While the new agreement moves away from some of the more value-laden concepts like equity and adopts a more practical approach, there is always a danger that, even though Canada and the U.S. share a common language, we can interpret our common language in different ways.

The other major flaw of the treaty was that it didn't work for fish. The original annexes to the Treaty established fixed ceilings for the harvest of chinook in Alaska and Canada and for coho off of the West Coast of Vancouver Island. For example, regardless of the abundance of chinook salmon in a given year, the Alaskan harvest was set at 263,000 fish, Northern B.C. at 263,000 and the West Coast of Vancouver Island at 360,000. The ceilings were based on what the scientists believed were historic averages of abundance. A string of so-called *el nino* years, generally poor ocean conditions and continued loss of habitat proved them wrong. Salmon abundance declined but the parties fished to the ceilings until it became clear that there were too few fish left to reach the spawning grounds.

The new agreement wisely moves from ceiling management to abundance-based management and includes triggers for protection of weak stocks of salmon. But there is some danger that the abundance levels chosen may be too high for protection of depleted wild stocks of salmon. If that proves to be the case, it will be necessary for the parties to be flexible in the implementation of the new agreement and adjust the harvest rates accordingly.

Mr. Chairman, there are three issues that are facing Congress and the Clinton Administration at this time with regard to the implementation of the Treaty. The first is the commitment of the parties to establish two funds, $75 million for Northern B.C. and Alaska and $65 million for Southern B.C. and Washington, Oregon and Idaho, for the restoration of salmon. The intent of the parties is that these funds are to be capitalized by the United States over a four-year period. The current appropriations bill for the Department of Commerce includes only $10 million for both funds - clearly an insufficient amount to meet the schedule for capitalization in the agreement.

The second issue is a rider inserted by Senator Stevens of Alaska into the Department of Commerce appropriation legislation that includes funds for the National Marine Fisheries Service. The rider would waive the provisions of the Endangered Species Act (ESA) with regard to the incidental take of listed salmon in Alaska. In addition, the rider would change the voting procedure under the U.S. Canada Salmon Treaty, essentially dividing the Commission into two separate decision blocks, one for Alaska and one for Washington and Oregon. TU is opposed to both of these provisions.

The genesis of this language regarding the waiver of the ESA is apparently a fear by Alaskans that, having seen the chinook fishery in Southeast Alaska reduced by the recent agreement with Canada under the Pacific Salmon Treaty, they would suffer further reductions under auspices of the ESA. This concern has been exacerbated by the slowness of the National Marine Fisheries Service in developing a biological opinion regarding the management of listed salmon under the new agreement.

While we can certainly sympathize with frustration over NMFS delays, exempting listed salmon caught in Alaska from the ESA is not the appropriate response. We have been informed by NMFS that the opinion will be out soon. Given that NMFS was deeply involved in the recent negotiations, it is unlikely that they would find that management under

the new agreement, which they trumpeted as a major success, was insufficient to meet ESA requirements. Further, if in the unlikely event that NMFS did find that management under the agreement would jeopardize listed species that originated in Oregon and Washington and that incidental take should be limited, it would be in Alaska's long term interest to support such limitations. As the vast majority of chinook salmon caught in Alaska are not of Alaskan origin, the diversity and health of stocks that contribute to that fishery should be of paramount concern to Alaska. Put simply, further jeopardizing stocks that contribute to their fisheries would not seem to be in Alaska's long term self-interest.

We are also opposed to the language that would change the voting procedure under the of the Pacific Salmon Treaty Act. Currently, the law requires that the three non-federal commissioners - the Alaskan representative, the representative of Oregon and Washington, and the representative of the Treaty Indian tribes of Oregon, Washington and Idaho - be in agreement before the U.S. delegation can act. This gives each of these interests a veto over any proposed action. The rider would divide the U.S. section for all species other than chinook, with the Alaskan representative able to make agreements for northern stocks and the Washington and Oregon and Tribal representatives responsible for agreements on southern stocks. While in practice the commissioners have given great deference to each other in representing their regional interests, the fact is that salmon are a resource that spans the entire coast. Resolving conflicts often involves looking at impacts along the entire coast and fashioning compromises that involve interrelationships between northern and southern stocks. It is better to have the commissioners working as a team, with each of the non-federal commissioners having a veto, than to further divide the delegation.

In our view, both provisions of this proposed legislation would diminish the value of the new agreement to Alaska. One of the real benefits of the new agreement is that it allows Alaskan commercial fishermen, particularly those who fish for chinook in Southeast Alaska, to market their products as being harvested in accordance with conservation principles. There is discussion of environmental certification of Alaska seafood products. Nothing would be more detrimental to those efforts than an attempt to exempt Alaska from one of the nation's most important environmental laws.

Finally, the Clinton Administration and Congress must both take action soon to authorize and fund removal of four dams on the lower Snake River to spur recovery of Federally-listed Snake River salmon. Recovery of Snake River salmon will reduce a large obstacle to successful implementation of the Treaty and restore a bountiful harvest to Northwestern and Alaskan fishers that has been lost for many years. Simply put, restored, harvestable levels of Snake River salmon will allow Alaskan fishers to harvest more salmon. A compelling and growing body of scientific evidence testifies to the need to remove the dams to restore Snake River salmon. Instead of pressing for a waiver of the ESA for Alaskan fishers, we urge the members of the Alaskan Congressional delegation to join us in aggressively advocating lower Snake River dam removal to the Administration and to Congress.

Mr. Chairman, that concludes my statement. Thank you for the opportunity to testify. I will be happy to answer any questions.

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