



**Treaty and Biocultural Concerns in
Managed Relocation: A Tribal
Perspective
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- 
- ❖ **Neutral position on managed relocation**
 - ❖ **No large scale tribal dialogue**
 - ❖ **Presentation makes no claim of representing the views of any tribe**



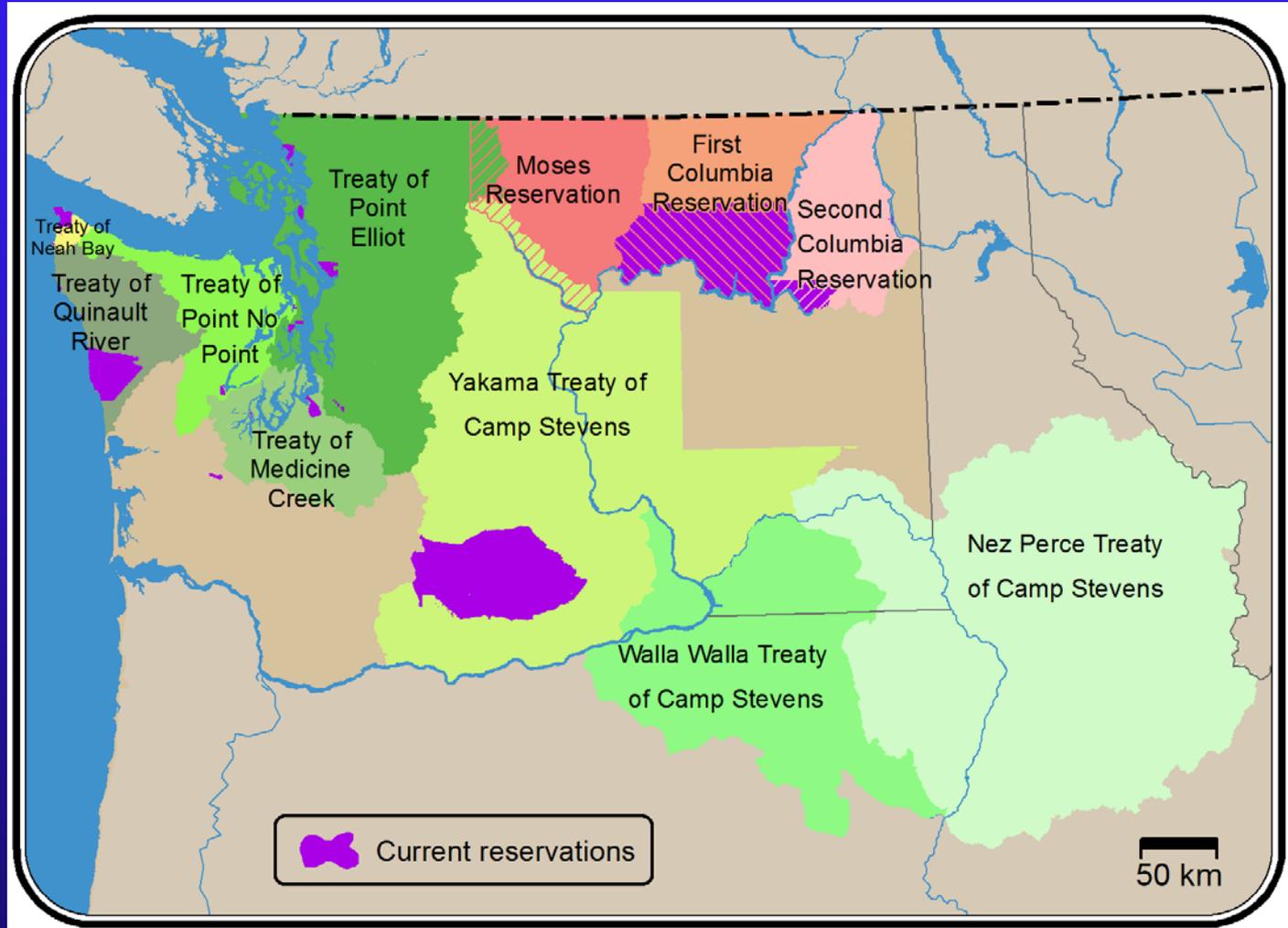
Burden Shifting

- ❁ **Managed relocation is a proposed solution to biodiversity problems in a weirding world**
 - ❁ **How weird? Biochaos? Resilient? Defendable? Not?**

- ❁ **Tribes working to maintain ways of life and biocultural landscapes, resources and values**
 - A. Cannot move: Legally bound to reservations**
 - B. Ancestral/Spiritual connections**
 - C. Kincentricity: Kinship obligations to the living world (e.g. Makah whaling)**

- ❁ **Ecological removal**

Treaties



Treaties: Culverts Case

- Tribal understandings of their treaties
- Culverts Case
 - March 29, 2013: Memorandum and Decision
 - Ricardo S. Martinez, US District Court
- Findings of fact

Both the negotiators and the Tribes believed that the fisheries were inexhaustible. Thus, during the negotiations, the “Indians, like whites, assumed that their cherished fisheries would remain robust forever.”





Treaties: Culverts Case

✿ Findings of law

Remedies at law are inadequate as monetary damages will not adequately compensate the Tribes and their individual members for these harms. Salmon harvests are important to Tribal members not only economically but in their traditions, culture, and religion; interests for which there is no adequate monetary relief.



Treaties: Culverts Case

Findings of law

The balance of hardships tips steeply toward the Tribes in this matter. The promise made to the Tribes that the Stevens Treaties would protect their source of food and commerce was crucial in obtaining their assent to the Treaties' provisions.“

"It was the intent of the negotiators, and the Tribes' understanding, that they would be able to meet their own subsistence needs forever . . . "



Treaties: Culverts Case

Findings of law

"Equity favors requiring the State of Washington to keep the promises upon which the Tribes relied when they ceded huge tracts of land by way of the Treaties."



Treaties

- ❁ Supreme law of the land
- ❁ Tribes have inherent rights
 - ❁ Title “running with the land”
 - ❁ Rights not granted/dele delegated by US
- ❁ Sovereigns, organized as peoples
 - ❁ Not stakeholders
 - ❁ “Balancing” language
- ❁ Reserved rights doctrine



Treaties

✿ Reserved rights to:

- ✿ Areas

- ✿ Species

- ✿ Habitats to support those species
Specific habitat servitudes

- ✿ Continue self-determined ways of life

Managed Relocation: Framing

- ❁ **Continuum of species redistribution**
 - ❁ corridors, planned connectivity, unmanaged migration, jump dispersal, invasive species, managed relocation
- ❁ **Procedure: participatory processes with procedural safeguards**
 - ❁ Free, prior and informed consent (FPIC)
 - ❁ Mutually agreed terms (MAT)
- ❁ **Problem characterization**
 - ❁ causes of endangerment, drivers, targets of action, responses, trait-mediated interactions, dynamics, co-transport



Managed Relocation: Framing

- ❁ **Decision watersheds**
 - ❁ Defend, accept, move
 - ❁ windows of ecosystem-based adaptation feasibility
 - ❁ adaptation wedges
- ❁ **Context assessment**
 - ❁ Laws, cultural values, stakeholders, treaty rights, cost-effectiveness, barriers, enabling mechanisms



Mitigation Hierarchy

- ❁ Avoidance
- ❁ In situ minimization of impacts
- ❁ in situ restoration
- ❁ Offset: managed relocation



Alternatives

- ❁ **Change location of organism**
 - ❁ Managed relocation
- ❁ **Change traits of organism**
 - ❁ Breeding, selective hybridization, genetic engineering, buying time for adaptation through natural selection, evolutionary tinkering, facilitated evolution, microevolutionary management
- ❁ **Modify or maintain source environment against the climactic forcing**
 - ❁ terraforming, microhabitats, maintaining cultural keystones, mimicking natural processes (e.g. hydrograph), conservation plantings, habitat plantings, constructed niche maintenance



Alternatives

❁ Subsidized sink populations

- ❁ “assisted back-migration”
- ❁ maintaining some populations through subsidies for cultural take (subsistence, ceremonial)

❁ Substitution

- ❁ analog species/rewilding
- ❁ invasive species
- ❁ “managed substitution”



Fulfilling trust responsibilities

- ❖ Trust responsibilities climate change world
- ❖ Shifting locations of species a grave threat to cultural survival
- ❖ Managed relocation of species offers some potential for salvaging cultural values
- ❖ in situ defense option must be primary and explicitly addressed