MEMORANDUM

TO: Donna Darm
Acting Northwest Regional Administrator
National Marine Fisheries Service

FROM: Dave Sones, Director of Natural Resources
Makah Tribe

RE: Treaty Groundfish Fisheries for 2002

DATE: September 7, 2001

Pursuant to 50 C.F.R. § 660.324(d), the Makah Indian Tribe requests that provision be made for harvest of groundfish by Pacific coast treaty Indian tribes in 2002 as follows:

1. **Sablefish.** The Indian treaty allocation of sablefish should continue to be 10% of the U.S. harvest guideline.

2. **Pacific Whiting.**
   a. **Whiting Allocation.** If Makah is the only tribe seeking an allocation of Pacific whiting, the Indian treaty allocation of Pacific whiting should continue to be governed by Makah’s allocation proposal, which was approved by the Court in *United States v. Washington*, Subproceeding 96-2. If other tribes seek an allocation of Pacific whiting, the allocation should accommodate the needs of each tribe, consistent with treaty allocation principles.
   b. **Incidental Catch.** Except for prohibited species, all fish incidentally harvested by Makah tribal members in the Makah treaty fishery for Pacific whiting should continue, to the extent required by Tribal law, to be forfeited to the Makah Tribe. The Makah Indian Tribe and the Northwest Regional Office of the National Marine Fisheries Service should continue to implement appropriate mechanisms to account for all fish sold and all fish discarded or forfeited to the Tribe under this provision.

3. **Black Rockfish.** Treaty harvests of black rockfish should continue to be subject to the regulations at 50 C.F.R. § 660.324(j).

4. **Slope Rockfish.**
   a. **Incidental Harvests During Directed, Fully Competitive Fisheries for Halibut and Sablefish.** To provide for full retention and full utilization during directed, fully competitive treaty fisheries for halibut and sablefish, there should be no limit on retention of incidental harvests of slope rockfish by treaty fishermen.
b. **Other Harvests.** Except as provided in a, treaty fishermen should be subject to trip limits on their retention of slope rockfish, which will be determined on the basis of final harvest levels for these species, expected effort, and other relevant factors. The Tribe should be permitted to require overages to be forfeited to the Tribe.

5. **Shelf Rockfish.**

a. **Incidental Harvests During Directed, Fully Competitive Fisheries for Halibut and Sablefish.** To provide for full retention and full utilization during directed, fully competitive treaty fisheries for halibut and sablefish, there should be no limit on retention of incidental harvests of shelf rockfish by treaty fishermen.

b. **Other Harvests.** Except as provided in a, treaty fishermen should be subject to trip limits on their retention of shelf rockfish, which will be determined on the basis of final harvest levels for these species, expected effort, and other relevant factors. The Tribe should be permitted to require overages to be forfeited to the Tribe.

6. **Nearshore Rockfish.**

a. **Incidental Harvests During Directed, Fully Competitive Fisheries for Halibut and Sablefish.** To provide for full retention and full utilization during directed, fully competitive treaty fisheries for halibut and sablefish, there should be no limit on retention of incidental harvests of nearshore rockfish by treaty fishermen.

b. **Other Harvests.** Except as provided in a, treaty fishermen should be subject to trip limits on their retention of nearshore rockfish, which will be determined on the basis of final harvest levels for these species, expected effort, and other relevant factors. The Tribe should be permitted to require overages to be forfeited to the Tribe.

7. **Yellowtail and Other Mid-water Rockfish.** To accommodate an expected effort of 3 to 4 vessels, the Tribe proposes the following regulation of harvests by treaty fishermen of these species:

a. **Aggregate Trip Limit.** Treaty fishermen should be subject to an aggregate trip limit for these species of 30,000 pounds per vessel per two-month period. Treaty fishermen should not be permitted to carryover portions of the trip limit that are not used in any two-month period.

b. **Tribal Adjustment of Aggregate Trip Limit.** The Tribe should be able to adjust the aggregate trip limit to minimize incidental catches of canary rockfish and widow rockfish, provided the average aggregate trip limit per vessel per two-month period does not exceed 30,000 pounds. For example, if incidental catches were low during the initial two-month period, the Tribe could raise the aggregate trip limit to 45,000 pounds for that period and reduce it to 15,000 pounds in a later two-month period.

c. **Trip Limits for Canary Rockfish and Widow Rockfish.** Treaty fishermen should be subject to a trip limit for canary rockfish of 300 pounds per trip, and a trip limit for widow rockfish that is the same as the limited entry trip limit for widow rockfish.

d. **In Season Adjustments.** In the event treaty fishing effort exceeds the anticipated 3 to 4 vessels, these trip limits should be adjusted in season.

8. **Lingcod.** Treaty fishermen should be subject to a harvest limit of 300 pounds per day per vessel and a limit of 900 pounds per week per vessel of lingcod. This proposal is designed to prevent
treaty fishermen from targeting lingcod, but to permit them to retain incidental harvests, including harvests on multiple-day trips.

9. **Bottom Trawl.** To accommodate a limited evaluation fishery using bottom trawl gear, with up to 3 vessels, the Tribe proposes the following regulations:
   a. **Sablefish Allocation.** The Tribe should be permitted to allocate a portion of its individual tribal share of the overall treaty allocation of sablefish to the Tribe’s bottom trawl evaluation fishery. Once Makah treaty fishermen using bottom trawl gear have harvested the sablefish allocated to the fishery, the Tribe’s treaty bottom trawl fishery should close.

   b. **Trip Limits for Targeted Species.** Treaty fishermen using bottom trawl gear should be subject to the trip limits applicable to the limited entry fishery for Pacific cod, Petrale sole, English sole, Rex sole, Arrowtooth flounder, and other flatfish.

   c. **Gear.** The Tribe will require that treaty fishermen use Council-approved bottom trawl gear.

10. **Observer Program.** The Tribe will develop and implement an observer program to monitor and enforce the limits proposed above.