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STATEMENT OF MEL MOON, DIRECTOR OF QUILEUTE INDIAN TRIBE'S  
NATURAL RESOURCES, ON SALMON FISHING ISSUES BEFORE THE PFMC  
AND NMFS

APRIL 11, 2002

My name is Mel Moon. I am the Director of Natural Resources for the Quileute Indian Tribe. I will first take a moment to outline our recommendation to PFMC for the Tribes' treaty troll fishery for 2002 and then another moment to comment on the Tribe's proposed recreational charter fishery.

This year the Tribes have reached a consensus regarding the the 2002 treaty troll fishery and hereby recommend this plan for adoption by the PFMC. The Tribes agree with an allocation of 60,000 Chinook and 60,000 Coho. The Tribes recommend that a May-June Chinook fishery occur with a subquota of <sup>30,000</sup> 31,500 <sup>?</sup> and a full Coho release. The Tribes further propose a July 1<sup>st</sup> - September 15<sup>th</sup> all-salmon species quota with <sup>30,000</sup> 28,500 <sup>?</sup> Chinook or quota of 60,000 Coho.

At the request of the State of Washington, <sup>?</sup> I am also here today to request that the Department of Commerce, though the National Marine Fisheries Service, include provisions in the 2002 Salmon Fisheries Management Plan that would allow the Tribe to conduct a charter fishing program on an experimental basis as part of the Tribe's treaty fishing operations.

As you know, the Quileute Tribe historically has harvested the majority of its treaty salmon share by means of commercial troll operations. However, due to the depressed price for salmon and the current glut of salmon on the market, it has become less and less profitable for tribal members to conduct commercial salmon fishing operations. Last year, the coastal tribes - the Quileute, Quinault, Hoh and Makah - did not even exhaust the tribal salmon allocation. Specifically, approximately 33,000 coho and 16,000 Chinook were left uncaught by the tribes.

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Because of this economic reality, the Tribe has been actively pursuing other means of maximizing the economic value its share of the salmon resource (ie., added value). As you might know, the Quileute Tribe is self-regulating. Under its treaty, the Tribe has the right to determine the wisest and best use of its share of the common salmon resource and to determine when and how off reservation treaty fishing rights will be exercised. In exercising its discretion, the Tribe has determined that one potentially valuable opportunity for the Tribe and its members is to access the treaty share by means of a charter fishing program. I would like to take a few minutes to briefly explain how the program would work.

First, the Tribe has already adopted ordinances and regulations that govern the charter fishing operations. Under these ordinances, only enrolled Tribal members of the Quileute Tribe may operate charter fishing vessels. Quileute members wishing to operate charter fishing vessels must purchase charter fishing vessel licenses from Quileute Natural Resources and must comply with Quileute tribal regulations. Non-Indian passengers must purchase a Quileute Tribal fishing license and all proceeds go to the Quileute Tribe Scholarship Fund. All catches are attributable to the enrolled Quileute Tribal Charter Vessel Operator, who distributes the catch after reaching port. The charter vessel operator has responsibilities for record keeping and making fish available for inspection by Quileute Natural Resources. These ordinances were provided to the Council in Sacramento in March of this year.

Second, the Tribe acknowledges and understands that vessels operating charter fishing businesses would have to comply with applicable federal safety regulations, including licensing under Coast Guard regulations and other vessel-related rules. Tribal vessel owners have obtained the necessary Coast Guard licenses already and their vessels will comply with applicable federal laws.

Third, the expected customers for these businesses will obviously be non-Indians, for the most part. We believe that it is entirely appropriate for non-Indians to catch treaty fish if they are doing so in the context of a highly regulated charter fishery, as this one would be. The Ninth Circuit Court of Appeals has already held that the treaties between the U.S. government and the Indian tribes guarantee the parties' right to dedicate portions of

their allocations to recreational fisheries. *U.S. v. Washington*, 761 F.2d 1404, 1409 (9<sup>th</sup> Cir. 1985). There is no question that charter fishing operations have a long history in the state of Washington and that Indians have guided non-Indian fishermen for many decades.

Some have questioned whether non-Indians can participate in a treaty charter fishery, in light of certain language in a 25-year-old decision that related to who might "assist" in a treaty fishery. We do not believe that the treaty fishing right of the Tribe prevents the Tribe from having charter fishing operations, and we believe that the language of that decision grew out of a historical situation that is not operative here. In the 1970s, non-Indians were abusing Indian fishing rights by leasing tribal *commercial* fishing vessels and gear under the guise of "assisting" tribal members, and reaping the largest share of the profits from commercial fishing. That situation does not occur on the coast any longer, and would not apply to the charter fishing operation as the Tribe has structured it.

Specifically, tribal regulations require the presence and supervision of licensed and enrolled tribal members, and all catches are attributable to these members who record and report the treaty catch. Passengers must pay a licensing fee to the Tribe, and all fees from the charter operation go the Quileute Tribe Scholarship Fund.

Lastly, this fishery will not create any conservation issues for the species. No impact analysis is necessary because recreational fishery impacts are significantly lower than troll commercial fisheries. We do not expect to take more than 1,000 Coho or 1,000 Chinook with this fishery. For 2002, the Tribe expects 2 fishermen to participate in this fishery.

In summary, the Tribe is informing the Council of its intentions per the State of Washington's request. On the other hand, however, the Tribe specifically requests that NMFS, and the Department of Commerce adopt provisions that allow the Tribe to conduct charter fishing operations as part of the 2002 salmon plan, and that any such fish caught during such operations to be considered "treaty fish." NMFS and the Department are both obligated to independently determine the extent of the Tribe's rights under the Treaty of Olympia, which is part of the governing federal law with which all federal

agencies must comply. As federal agencies, each is charged with the trust responsibility to give full effect to the Tribe's treaty rights. We request that you do so here.

Thank you.