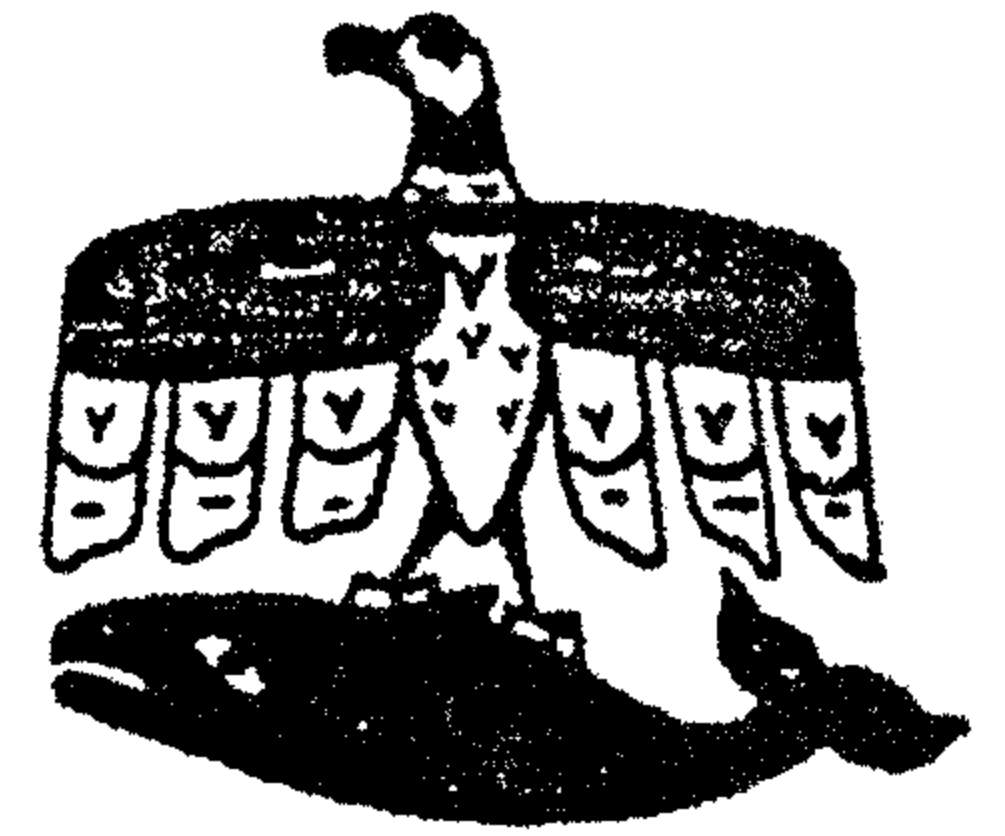


MAKAH TRIBAL COUNCIL

P.O. BOX 115 • NEAH BAY, WA 98357 • 360-645-2201



IN REPLY REFER TO:

The Honorable Donald Evans
Secretary of Commerce

July 14, 2003

Dear Mr. Secretary:

Billy Frank Jr., recently presented to you the Northwest Indian Fisheries Commission's Tribal Policy Statement on Marine Protected Areas, Marine Reserves, Marine Sanctuaries, and Fishery Conservation Zones. As Mr. Frank noted in his transmittal letter, each tribal government is a sovereign entity, which may choose to develop its own statement regarding marine resource initiatives. Mr. Frank pointed out that the Commission's statement should be read as supporting these tribal specific statements, as it is appropriate that each tribe represent its unique geographic, social, economic, and legal interests.

The Makah Tribe has developed our own statement regarding Marine Protected Areas, which we enclose with this letter. The Reservation, located on the northwest corner of the Olympic Peninsula, borders both the Pacific Ocean and the Strait of Juan de Fuca in Washington State.

Because of our unique geographic location, and our reliance on marine resources harvested from the Pacific Ocean and the Strait of Juan de Fuca, our tribe has unique concerns regarding the possible establishment of Marine Protected Areas. We have attempted to articulate those concerns clearly and concisely in the enclosed statement. The Makah Tribe joins Mr. Frank in urging you to understand where we stand with this issue, and we share his belief that government-to-government dialog is essential to preserve marine resources while at the same time upholding Indian treaty rights and fulfilling the federal trust responsibility to Indian Tribes.

We would appreciate the opportunity to discuss our position with you and your agencies, and hope to hear from you about how to begin this effort.

Sincerely,

MAKAH TRIBAL COUNCIL

Nathan Tyler, Tribal Chairman

DM EWS ✓

- Cc: Washington State Congressional Delegation ✓
Conrad C. Lautenbacher, Jr., NOAA ✓
William Hogath, Ph. D., NOAA ✓
Richard W. Spinrad, Ph. D., NOS ✓
Daniel Basta, Director, NMSP ✓
Aureen Martin, AS-IA, DOI ✓
Craig Manson, AS-FWP, DOI ✓
Stan Speaks, BIA Regional Director ✓
Bill Laitner, Superintendent Olympic National Park ✓
Fran Mainella, Director, National Park Service ✓
Carol Bernthal, Olympic Marine Sanctuary ✓
Northwest Straits Commission ✓
Governor Gary Locke ✓
Puget Sound Action Team
Washington Department of Natural Resources
Washington Department of Ecology ✓
Washington Department of Fish and Wildlife ✓
Washington Fish and Wildlife Commission
Northwest Indian Fisheries Commission ✓

**STATEMENT OF THE MAKAH INDIAN TRIBE
REGARDING MARINE PROTECTED AREAS**

July 2003

In recent years, various individuals, organizations and government agencies have proposed the establishment of marine protected areas (MPAs). Already, MPAs have been established off the coasts of the United States and elsewhere. In 2000, President Clinton signed an Executive Order to "strengthen and expand the Nation's system of marine protected areas."

In his Executive Order, President Clinton defined an MPA as "any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein." The MPA Center in the Department of Commerce states on its website that there "are many different types of MPAs in the United States," including "national marine sanctuaries, fishery management zones, national seashores, national parks, national monuments, critical habitats, national wildlife refuges, national estuarine research reserves, state conservation areas, state reserves, and many others."

However, despite these definitions, MPAs are typically understood as areas in which harvests of marine resources are prohibited. Ostensibly designed to conserve and enhance over-fished marine resources, MPA proposals can often mask an extreme preservationist agenda, which seeks to prohibit harvests regardless of their sustainability, the actual condition of affected marine resources, or alternative means to conserve and enhance such resources. Moreover, proposals for MPA "no-take zones" often reflect a "one-size-fits-all" approach to marine management, which fails to consider the unique attributes of particular areas, resources and fishing communities.

The possible establishment of MPAs off the northwest coast of Washington is very threatening to the Makah Tribe. The Makah Tribe depends on treaty secured fishing rights in marine waters to sustain culture and economics. Because the Tribe's rights are geographically restricted to our usual and accustomed fishing grounds at treaty times, "no-take" MPAs could deprive the Tribe of the most important part of our livelihood and way of life.

Some MPA proponents suggest that harvest restrictions would not apply to Indian treaty harvests. However, the Makah Tribe's experience with the Olympic Coast National Marine Sanctuary is that exemptions for treaty or other harvests put harvesters in the untenable position of harvesting resources from a sanctuary. Despite continuing rights to engage in harvesting activities, the existence of the Sanctuary is used to attack and limit such rights. The Makah Tribe fears that the establishment of MPAs within our usual and accustomed fishing grounds would be used in the same manner.

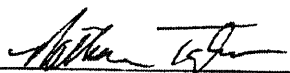
For these reasons, the Makah Tribe generally opposes the establishment of MPAs. As President Clinton stated in his Executive Order, the pursuit of MPAs "does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes."

Before a "no-take" MPA is established in tribal usual and accustomed fishing grounds, there must be: (1) compelling scientific evidence that particular resources are in need of conservation and rebuilding; (2) scientific analyses of stock structure and distribution to support the location of the MPA; (3) a rigorous examination of alternative means to conserve and enhance such resources to rebuild marine stocks (including fisheries enhancement programs used successfully in Japan and elsewhere, more conventional fisheries management measures, and special management areas in which measures are tailored to the particular area, resources and communities affected); and (4) a clear demonstration that establishment of an MPA within tribal usual and accustomed grounds is a necessary last resort to conserve and enhance the resources.

Based on the information currently available to the Makah Tribe there is no basis for the establishment of "no-take" MPAs in the Makah Tribe's usual and accustomed fishing grounds. Rather, the development of enhancement programs and special management measures tailored to these areas can conserve and enhance marine resources while permitting sustainable harvests and the continued exercise of the Makah Tribe's treaty rights.

In all events, the Makah Tribe must be a full partner in the consideration and development of any measures, including any MPA proposals that might affect the resources or harvests in tribal usual and accustomed fishing grounds. Because of our treaty rights and the federal trust responsibility to Indian tribes, and as required by Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments, the Makah Tribe must be consulted and invited to participate in scientific analysis and formulation and evaluation of alternatives throughout the development and consideration of such measures. In addition, funding sources must be identified for tribal scientific research and analysis, to enable the Makah Tribe to participate meaningfully in such processes.

MAKAH INDIAN TRIBE



Nathan Tyler, Tribal Chairman