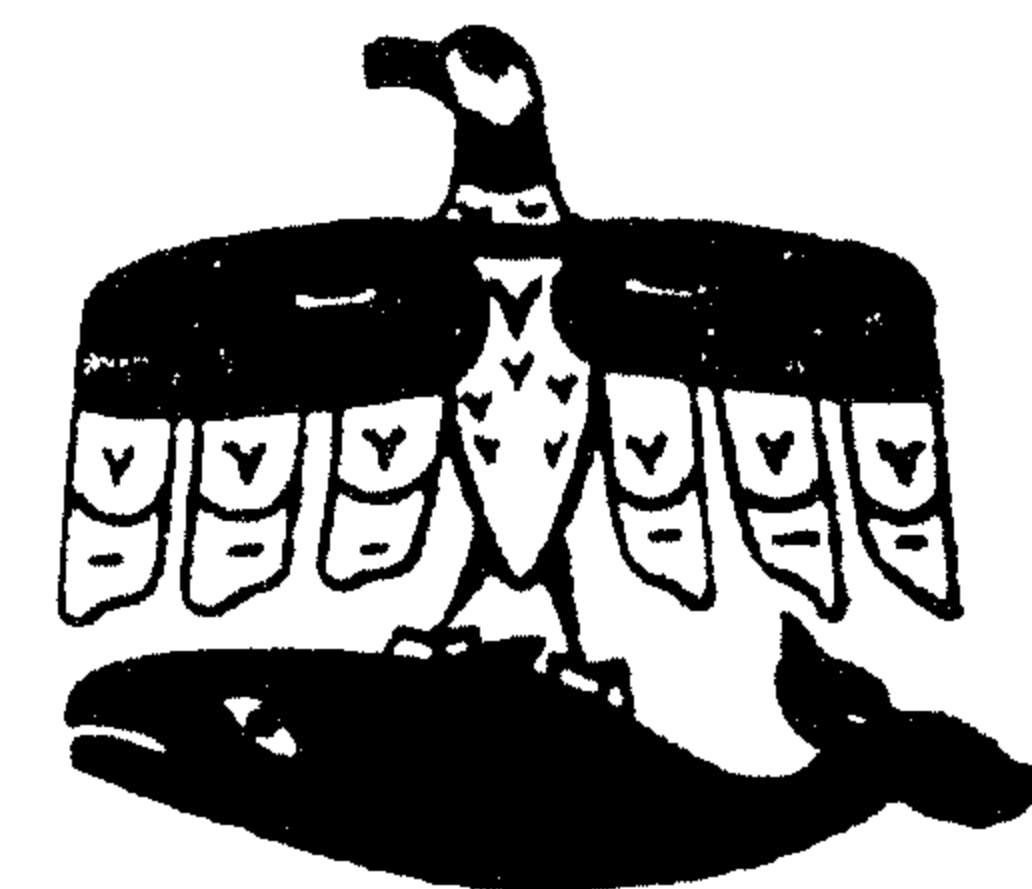


MAKAH TRIBAL COUNCIL

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IN REPLY REFER TO:

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JUL 02 2004

June 16, 2004

PFMC

Carol Bernthal, Sanctuary Superintendent
Olympic Coast National Marine Sanctuary
138 West First Street
Port Angeles, WA 98362

Re: Sanctuary Role in Fishery Management and Regulation

Dear Ms. Bernthal:

We write to support and amplify the views set forth in Billy Frank's May 3, 2004, letter to you regarding the role of the Olympic Coast National Marine Sanctuary ("Sanctuary") in the management and regulation of fisheries.

The National Marine Sanctuaries Act ("Act") requires the Secretary of Commerce ("Secretary") to provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement a proposed sanctuary designation. 16 U.S.C. § 1434(a)(5). Under the Act, "[d]raft regulations prepared by the Council, *or a Council determination that regulations are not necessary* pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of [the Act] and the goals and objectives of the proposed designation." *Id.* (emphasis added).

In accordance with this provision, the National Oceanic and Atmospheric Administration ("NOAA") consulted with the Pacific Fishery Management Council ("PFMC") during the designation process for the Sanctuary to determine if additional fishery regulations were necessary. "The PFMC responded that no additional regulations were necessary and that management responsibility regarding fishing activities should remain with existing authorities." Olympic Coast National Marine Sanctuary, Final Environmental Impact Statement/Management Plan, vol. 1 ("FEIS") at p. I-31.

The Secretary accepted this determination. The FEIS explained:

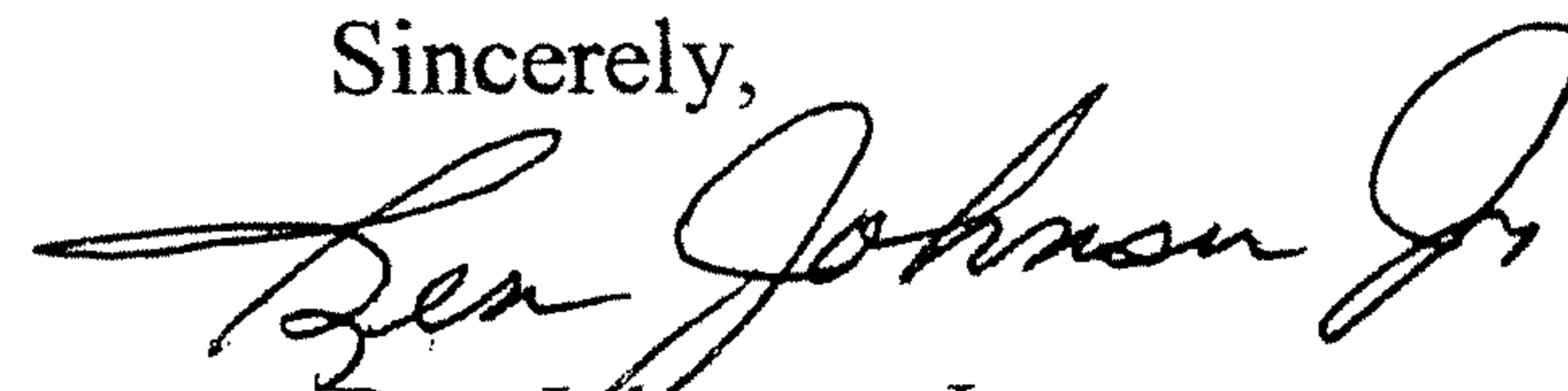
NOAA evaluated the possibility of proposing some additional Sanctuary regulation of fishing. However, the existing management authorities, the [Washington Department of Fisheries], [the Washington Department of

Natural Resources], [the National Marine Fisheries Service], PFMC, and the Tribes have comprehensive management authority of these resources. The management regime is highly complex and well coordinated with Canada and other west coast states through the International Pacific Halibut Convention and the Pacific Salmon Treaty. Sanctuary regulation of fishing *would undermine the existing international and regional regime*. The species are highly migratory and direct Sanctuary management of fishing *would have no foreseeable ecological benefits*.

FEIS at p. IV-89 (emphasis added). For these reasons, NOAA determined “fishing in the Sanctuary, including fishing for shellfish and invertebrates, *shall not be regulated as part of the Sanctuary management regime*.” *Id.* at p. III-45 (emphasis added).

As Billy Frank pointed out in his letter, this determination was paramount in our tribe’s support for designation of the Sanctuary. We would appreciate your assurance that the Sanctuary continues to adhere to this determination.

Sincerely,



Ben Johnson, Jr.
Chairman

Cc: Vice Admiral Conrad C. Lautenbacher, Jr., Assistant Secretary, Department of Commerce
Dan Basta, Director, National Marine Sanctuary Program
Bob Lohn, Regional Director, NOAA Fisheries
Jeff Koenings, Director, Washington Department of Fish & Wildlife
Donald K. Hansen, Chairman, Pacific Fishery Management Council
Billy Frank, Jr., Chairman, Northwest Indian Fisheries Commission