

Mr. Chairman,

The EFH DEIS currently contains language stating that, “NMFS does not intend for any of the alternatives described below to apply to tribal fisheries in U&A grounds described in 50 C.F.R. 660.324(c).” The tribes would like to reiterate that treaty fisheries be recognized as exempt from any alternative going forward in the EFH FEIS that would negatively impact treaty fishing rights. We will continue working with NOAA Northwest Region Staff to develop and/or specify appropriate habitat protections within usual and accustomed areas (U&As).

The tribes also note that NOAA has a procedural duty to consult with us on matters affecting our interests in U&A areas (Executive Order 13175)¹. As such no closure should be established in a U&A area without consultation and agreement of the affected tribe(s). Finally, we recognize the importance of assessment and monitoring programs developed in conjunction with the tribes to measure the appropriateness and effectiveness of habitat protections within U&As.

¹ Consultation and Coordination with Indian Tribes, American Indian and Alaska Native Policy of the U.S. Department of Commerce, dated March 30, 1995