



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
7600 Sand Point Way N.E.  
Seattle, Washington 98115

Agenda Item D.6.a

Supplemental NMFS Letter 2

June 10, 2015

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Lorraine Loomis  
Chairperson  
Northwest Indian Fisheries Commission  
6730 Martin Way E.  
Olympia, Washington 98516-5540

Dear Chairperson Loomis:

Thank you for your recent letter regarding groundfish essential fish habitat (EFH) and coastal tribal treaty rights. The National Marine Fisheries Service (NMFS) recognizes and appreciates all of the hard work that the coastal treaty tribes, as co-managers of the fisheries, contribute to the Pacific Fishery Management Council (Council) process. We also recognize, and take very seriously, the treaty rights held by the tribes and our responsibilities to protect those rights.

In particular, we appreciate that your Usual and Accustomed fishing grounds (U&As) are not, as you state, "just fishing areas," but instead were specifically reserved in treaties because of their critical importance to the coastal tribes. In addition, NMFS also recognizes that the coastal tribes have been valuable partners to both NMFS and the Council in the co-management of our shared marine resources.

Your letter raises several concerns that I would like to address. The first is that you believe our support of the action taken at the April Council meeting to not exclude the treaty U&As from consideration for changes to EFH indicated a betrayal of our trustee responsibilities and that there was a concerted, behind-the-scenes effort to circumvent the Habitat Framework. I can assure you that was not our intent, nor do I believe it was the intent of the other Council members that voted in favor of the motion. The Council action was only to determine the scope of issues to be explored by the Council. The action did not in any way determine the outcome of issues of concern to the tribes. NMFS' West Coast Region designee at the Council, Frank Lockhart, as well as other Council members that spoke to this issue, tried to make it clear that the Council action should not be construed as a lack of support for the Habitat Framework or as support for making changes to EFH conservation areas in the U&A that were contrary to tribal wishes. Rather, as Mr. Lockhart noted before he voted yes, NMFS supported the motion because it provided the opportunity for the joint NGO/groundfish industry collaborative effort to present their ideas to the Olympic Coast Intergovernmental Policy Council and give the tribes and Washington Department of Fish and Wildlife an avenue for considering EFH closed areas within the U&A, should they choose to do so. Although Mr. Sones and Ms. Culver did not believe they would have anything to present when the Council considers the range of alternatives in September, NMFS felt that it was better to leave the door open to that possibility. This support for considering EFH conservation areas was specific to the collaborative effort, and was not



intended to include any other proposals. We also supported the motion to allow a more robust analytical approach to EFH changes. In many ways, this action was similar to the frequently-used convention within the “North of Falcon” salmon management process to explore a regime “for modeling purposes;” that is, to determine what issues, if any, may be identified.

Regarding the Habitat Framework, we are very supportive of the efforts by the tribes, the State of Washington, NOAA’s Olympic Coast National Marine Sanctuary, and our own scientists, to promote science-based habitat protection. We consider this to be a very important effort and agree with you that, if successful, it can set a standard for ecosystem-based management along the entire West Coast. Again, it is our strong belief that the amended motion did not put any constraints on the Habitat Framework process. Rather, it was intended to provide both the opportunity for the tribes and the State of Washington to listen to the collaborative effort’s ideas considering EFH conservation areas in the U&As, and an avenue for the tribes and the State of Washington to propose changes at the September Council meeting, should they choose to do so.

Your letter also mentions a change in duties of a NMFS West Coast Region employee. While I appreciate your comments on how we choose to manage and distribute our staff resources, I assure you that your conclusions are without foundation. First, as explained above, we do not see in the scoping action of the Council any final determinations or conclusions that adversely affect treaty rights, regardless of which-staff-does-what. Second, soon after the merger that created the West Coast Region, we determined that Dr. John Stadler was to lead our EFH efforts coastwide and that other staff would “wind down” their participation in Council-related activities in order to better address priority habitat issues in the Oregon Washington Coastal Area Office. We have implemented that plan since it was adopted over a year ago.

Finally, we welcome your request to meet and discuss consistency between tribal and federal policy within the Council EFH review process. NMFS and Council staff will develop a range of potential dates and will contact coastal tribe representatives to arrange a meeting as soon as possible.

Again, thank you for your letter and if you have any questions, please do not hesitate to contact Frank Lockhart at 206-526-6142 or [frank.lockhart@noaa.gov](mailto:frank.lockhart@noaa.gov).

Sincerely,



William W. Stelle, Jr.  
Regional Administrator

cc: Dorothy Lowman, Chair, Pacific Fishery Management Council  
Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council