

Coastal Treaty Tribes Statement on Essential Fish Habitat Final Action

We, the Coastal Treaty Tribes (CTT), are the Hoh, Makah, and Quileute Tribes and Quinault Indian Nation. The Coastal Treaty Tribes' rights to fish in their Usual and Accustomed Areas (U&As) were secured by their representatives in both the Treaty of Olympia (1856) and the Treaty of Neah Bay (1855). That right is held in perpetuity and is directly tied to place (i.e. the U&As). Since the development and adoption of Amendment 19 to the Groundfish Fishery Management Plan (FMP), we have raised concerns regarding Pacific Fishery Management Councils (Council's) action relative to enacting habitat protection areas within and adjacent to our U&As without clear criteria for evaluating both their impacts to our place based fishing communities or their biological success. Therefore, we continue to call for no action north of Point Chehalis under Amendment 28.

The CTT have always recognized that fish need functioning habitat and have committed to working with state and federal co-managers to improve on the scientific understanding of ocean habitats. Our goal is to collaborate with our co-managers, develop informed management measures, and protect habitats while not creating conflict with our treaty rights. We are stewards of the marine environment and consider conservation as a critical priority in our management of these resources. Moreover, because our rights are place-based, we cannot overemphasize that any closures adjacent to or within the U&As will have a direct effect on treaty rights and the health of our communities.

The CTT expressed their objection at the lack of consultation when Essential Fish Habitat (EFH) was enacted in 2006. At that time we noted the conflict between EFHCAs and the Washington Treaty Tribes' (22 Tribes) collective Tribal Marine Protected Area Policy (TMPAP) which was adopted in 2003 and shared with Department of Commerce at that time. In summary the TMPAP identifies the minimum elements needed to create and manage protection areas such as EFH. In short, the process which PFMC followed in designating EFH closures within and adjacent to the Treaty U&As fell short of our respective consultation policies.

During the current EFH review process, the CTT have consistently identified problems with the lack of clear standards or criteria for review of the proposed changes to EFH both early in this review and throughout the multiyear process. We have called for standards that would inform management of what is needed to trigger amendments and EFH designations, and that any designations correspond to the collective understanding of groundfish essential habitat needs.

When the Council's process moved into Phase 3, the CTT and NOAA committed to two actions that are separate from the Council's proposed revisions to EFH. We believe these steps forward for the tribes are also consistent with the Council's and NOAA's long-term efforts relative to EFH. The first action is a cooperative effort of the Olympic Coast Intergovernmental Policy Council (CTT, Office of National Marine Sanctuaries, and Washington State), an "IPC Habitat Framework". This is a comprehensive inventory and GIS description of the marine habitats of the Olympic Coast. The second action was to engage in government-to-government consultation with our federal trustees in order to better understand the concerns that the CTT continue to raise. Most

notably is that any major changes to the groundfish FMP or EFH designations must be vetted through a process that respects the CTT's sovereign status. As a result of these commitments, the Council voted in September 2015¹ and in April 2016² that any proposed changes to EFHCAs or RCA north of Pt. Chehalis, WA or the CTT's collective treaty areas, were excluded from the geographic scope of preliminary preferred alternatives that would be analyzed for this proposed action. To clarify, this motion originally referred to everything north of Pt. Chehalis and was then modified to become the collective treaty area.

The CTT, State of Washington, and NOAA, continue to work on the IPC Habitat Framework to better understand ocean habitats in the U&As. Most recently, we developed several interactive maps³ incorporating seafloor habitat data into the Coastal and Marine Ecological Classification Standard (CMECS)⁴ developed by NOAA and work has begun on the biotic and water column components. We hope to use this scientific work and the associated data catalogue for a variety of purposes, including, but not limited to, habitat protection and improved marine resource management. In the meantime, we believe it appropriate that the Council continue to not take any action that might presuppose the outcomes of either our ongoing scientific work or the ongoing consultations regarding our sovereign interests.

The safeguard of the marine environment is a natural mandate for the CTTs who have inhabited the Olympic Coast since time immemorial and depend on its resources. Protecting marine habitat and protecting the treaty rights to marine resources are by no means mutually exclusive. The CTTs remain committed to work with state and federal partners to understand ocean habitats and to enact habitat protections that are grounded in our scientific understanding of species needs that are not in conflict with our place-based treaty rights.

¹ http://www.pcouncil.org/wp-content/uploads/2015/12/September_2015_Final_CouncilMtgRecord.pdf

² http://www.pcouncil.org/wp-content/uploads/2017/01/Final_CouncilRecord_April2016.pdf p. 29

³ <https://geo.nwifc.org/ocean/>

⁴ <https://www.cmeccatalog.org/cmeccs/>