



## HOOPA VALLEY TRIBAL COUNCIL

Hoopa Valley Tribe

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Chairman Ryan Jackson

March 19, 2019

Via E-mail: [barry.thom@noaa.gov](mailto:barry.thom@noaa.gov)

Barry Thom, Regional Administrator  
NOAA Fisheries, West Coast Fisheries Region  
1201 NE Lloyd Blvd., Suite 100  
Portland, OR 97231

Re: *Hoopa Valley Tribe v. Ross* – April Mediation Meeting

Dear Regional Administrator Thom:

We have received your letter dated March 6, 2019 responding to the Hoopa Valley Tribe's notices of violation of the Endangered Species Act sent on July 18, 2018 and February 28, 2019. Your letter focuses on defending the change in methodology used to estimate incidental take of SONCC Coho, which was first implemented by PFMC and NMFS during the 2018 season. The Tribe's lawsuit does not directly challenge the substance of the new methodology; rather, the Tribe contends that the change in methodology is a significant revision with a direct impact on SONCC Coho and that it cannot be implemented absent formal re-initiation of consultation under the ESA. The Tribe urges NMFS to cease use of this methodology in the 2019 season and to re-initiate consultation on the 1999 BiOp.

Your response letter also did not address the broader bases for re-initiation of consultation that were contained in the Tribe's February 28, 2019 letter including the length of time that has passed since the 1999 BiOP with no new evaluation of impacts to SONCC Coho, the failure of SONCC Coho to recover in any way over the past 20 years, and the new information regarding disease, ocean conditions, and declining Chinook populations. Re-evaluation of the impacts of the ocean fishery on SONCC Coho is long overdue.

The Tribe is also very concerned with the contrast in how NMFS is managing the ocean fishery with the restrictive standards that are being imposed solely on the Tribe with respect to the Tribe's management of its own fishery. NMFS has a duty not only to ensure recovery of SONCC coho but it also has a trust obligation to honor and protect the Tribe's federally reserved fishing rights. Yet, while NMFS has liberalized the standards applicable to the ocean fishery and other non-Indian impacts on SONCC coho in the Klamath and Trinity Rivers, it has continued to tighten standards on the Tribe in an unreasonable and unjustifiable way.

Prompt further discussion on a government-to-government basis is necessary and appropriate to resolve the outstanding issues regarding the adequate protection of SONCC coho as well as the Tribe's federally reserved fishing rights. The Court in the *Hoopa Valley Tribe v. Ross* case has directed the parties to meet in an effort to settle the case. We propose a mediation session between the Tribe, yourself, and other appropriate federal officials during

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the week of April 8 in Rohnert Park, California, where the PFMC meetings will be occurring that week.

Please advise as soon as possible on your availability for a mediation so that we can notify the Court and schedule the services of the mediator.

Sincerely,

HOOPA VALLEY TRIBAL COUNCIL

*Oscau Billy* Vice Chairman

*for* Ryan Jackson, Chairman

cc. Sarah Sheffield, DOJ