



THE TULALIP TRIBES

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The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie, and Skykomish tribes and other tribes and band signatory to the Treaty of Point Elliott.

May 28, 2004

Public Comment on Preliminary Report
 U.S. Commission on Ocean Policy
 1120 20th Street, NW
 Suite 200 North
 Washington, D.C. 20036
 Fax: (202) 418-3475

Dear U.S. Commission on Ocean Policy:

The Treaty Indian Tribes served by the Northwest Indian Fisheries Commission commend your report on oceans—the first comprehensive governmental review of the nation's ocean policy in 35 years. We believe it is far more than coincidence that this report was the second major one released in the last year. The privately created Pew Oceans Commission's "America's Living Oceans: Charting a Course for Sea Change," was released in June. Both reports call for significant changes in the way the oceans are managed, and for good reason. The oceans are not well.

We applaud the hard work done by Bill Ruckelshaus, Professor Marc Hershman and other members of the U.S. Commission on Ocean Policy to produce this report. It is a historically significant feat and it is absolutely essential to prioritize meeting the needs of the oceans to the highest possible level. Nothing is more important. This is an issue that directly affects our Mother Earth, herself, and every form of life she sustains—including every one of us. As Chief Seattle (Sealth) said, all things are connected. It is very important for the Ocean Commission Report to recognize this fact and to specifically identify that the ocean, the rivers and the inland waters are all connected, just as all of these are connected with every other element of our world. Environmental assessments of the oceans and all inland waters are critically needed. On the West Coast, this should lead to an expansion of the role of the Pacific Fisheries Management Council, to include broader habitat assessment in the ocean and inland waters. It should also include full involvement of and government-to-government collaboration with tribal managers.

It is impossible to over-emphasize the significance of these facts. The oceans and their connected environments are vital to the survival of all life on Earth. Again, it is no surprise to us that two major Oceans Commissions have now acknowledged this, and made numerous recommendations for change. Our ancestors have always taught us that we must treat the Earth with respect and reverence. Yet we have borne witness to the disrespectful treatment of the eco-system. We have not been silent as poisons have been poured into the air and water. Nor when the land and resources created to sustain us have been over-exploited and treated with disdain. We have spoken out, consistently and persistently, in a futile effort to warn the federal government, industry and non-Indian people that their ways have been wrong.

There are those who have made efforts to do better, of course. Senator Warren Magnuson, for example, fought to wake up the nation following the Stratton Commission—the last government commission to make a comprehensive report on the nation's ocean policy. Senator Maria Cantwell, a member of the

Senate Committee on Commerce, Science, and Transportation and its Subcommittee on Oceans, Fisheries, and Coast Guard, pledged to follow in "Maggie's" footsteps after the release of your report. Such things are heartening to us. But let us always remember, actions speak louder than words. It is critical for the Commission to follow up on the report, pushing for action on your recommendations. But we have doubts that the issues addressed in the report will be given the high priority attention they deserve from the federal bureaucracy. We beseech you to use your findings to make a dent in that bureaucracy due to the enormous gravity of the ocean condition. As indicated in your report, there is a dire need to create a new national ocean policy framework for improved decision-making. We agree with the need to strengthen science to provide better information to decision-makers and with the need to enhance ocean education to encourage future leaders and an informed citizenry. These themes are tied together by the Commission's emphasis on ecosystem-based management, a concept we have long understood. Through tribal participation on the United Nations Conference on Biodiversity, the U.S.-Canada Pacific Salmon Commission, the Pacific Fishery Management Council, the Washington/Oregon Outer Continental Shelf Task Force, and other efforts, we have advocated greater understanding that the ecosystem does not recognize state or national boundaries. We have emphasized the need for better management to protect cultural resources. The need to sustain sea life, from eel grass to salmon, has cultural implications for people that transcend any boundary. Such resources should be managed with this fact in mind, with the highest possible degree of international coordination.

We do have some differences with the report, which we also consider to be of the highest priority. (Please see our attachment for specifics.) Tribes are sovereigns with long-standing relationships with the oceans and all the various resources and environs that connect with the oceans of the world. Yet our role as resource managers has been virtually omitted from the report. We have been here for thousands of years and have always been advocates for the care of the oceans. We have treaty-protected rights to have viable fisheries. We have a long-standing stake in healthy populations of salmon, groundfish, shellfish, whales and many additional resources to sustain our bodies, culture and spirits. In Washington State, much of the coastline belongs to the tribes, tribes retain management and jurisdiction rights extending far out into the ocean, and tribes have long been active managers of rivers and uplands throughout the region. Yet, our role and our very identity has been ignored in your report. That is simply not acceptable.

Are we to assume from this that there is no intent to involve us as managers or invest in our programs if your recommendations are implemented? If that were to occur, it would be tragic because we have been the governments that have consistently vied for better ocean-related practices. We have been engaged in efforts to restore and protect the entire eco-system, through good management, good monitoring, good science, and good education efforts for many years. We live on the rivers, the Puget Sound and the ocean every day of our entire lives, because that is who we are. Hopefully, the omission of the tribes as managers was an oversight. If not, we may be placed in the unfortunate position of having to oppose the implementation of the report as written. That, too, would be tragic in our minds because we are such strong proponents of increased focus on the problems outlined in the report. To re-emphasize, the oceans and connected waters are sick and, although the tribes did not cause the problem, we must most assuredly be involved in the cure—at the government-to-government management level.

Let us state an example. We understand—above all others—that the well-being of everyone depends on the survival of fish and wildlife. Yet both of these ocean reports, particularly the Pew Report, advocate marine protected areas without acknowledging that treaty-protected rights to fish are paramount. We recommend that the language in Mr. Ruckelshaus' Northwest Straits Commission report regarding the inclusion of tribes in the establishment of marine protected areas be adopted in the Ocean Commission's report. This would be more in line with treaty-protected rights, and with the federal trust responsibility to the tribes. Please be aware that tribes have known the importance of curtailing harvest when the resource can't sustain it. That's why we reduced our salmon fisheries 80-90 percent over the past 20 years. To us, that often means hungry and unemployed people. But we do it because the ocean and its resources are our

outcome of good management. People eat fish, and that is a good thing. The Creator gave them to us, to feed our bodies and nourish our spirits, and that is as it should be.

Even with the harvest cutbacks, however, the general trend for our resources is one of decline. And we know that unless serious changes are made with respect to the environment, that trend will continue. We, above all others, understand the connection between clean water, healthy people, and healthy fish. We have often referred to salmon as the measuring stick of a healthy environment.

So, again, we applaud your efforts, and encourage you to move forward with your recommendations. But we ask you to do so with greater understanding of the rights, roles and interests of the tribes. Together, we must send a clear message to the federal administration that the status quo is not working, nor acceptable. As it now stands, no one is in charge. These great resources are getting sicker and sicker, and no one is doing anything about it. Let us hope that, with more acceptable levels of tribal inclusion, the Ocean Commission's report will be the wake up call this nation needs, and that it will help provide the road map to the collaborative action needed to turn the tide on the poisoning of our seas.

Sincerely,

A handwritten signature in cursive script that reads "Terry Williams". The signature is written in black ink and is positioned above the printed name and title.

Terry Williams
Fisheries & Natural Resources Commissioner

Attachment: Specific comments

Specific Tribal Comments

U.S. Commission on Ocean Policy

Overall:

In the Environmental Analyses referenced above, and in all efforts associated with this report and the National Ocean Council, it is critical that in addition to contemporary science, Tribal Traditional Knowledge be used for all scientific and policy purposes.

- **Also, let it be clear. The Regional Fisheries Management Councils, e.g., the Pacific Fisheries Management Council will not be replaced by the Committee on Ocean Resource Management, or any other programs proposed by this report. The Councils must be tasked with broader environmental responsibilities, including the production of Environmental Analyses, which must address the relationship of abundance of production with environmental diversity and spatial structure of anadromous fish stocks to fresh water and marine habitat conditions. (The Committee on Ocean Resource Management can function under the umbrella of the Councils.)**
- **Tribal governments must have direct access to funding for restoration and recovery activities under their jurisdiction/joint management authority, particularly shorelines and the nearshore environment.**
- **Let it be clear that nothing in this report over-rides treaties. Any such impacts will be assessed by tribes, themselves.**

Figure 3.1 Large Marine Ecosystems Corresponding to Natural Features

- **We believe the depiction of the boundary between the Gulf of Alaska Large Marine Ecosystems (LME) and California Current LME to be in error. The figure currently depicts the line to coincide with the U.S./Canada border between the State of Washington and British Columbia. This is an artificial boundary relative to the true demarcation of marine ecosystems off the Pacific Northwest coastline.**

The boundary line should be drawn between the northern end of Vancouver Island and the Queen Charlotte Islands. This marks the transition zone between the Coastal upwelling Domain and the Coastal Downwelling Domain. The dominate pelagic and demersal stocks associated with these oceanic domains are very different. The boundary between these two domains should be where the line is draw to depict the break point for the Gulf of Alaska LME and the California Current LME.

4.8 Committee on Ocean Resource Management

- **Request modification of this Committee to include an advisory subcommittee for non-federal resource management entities comprised of tribal and state managers. Such an administrative structure should be incorporated to insure a direct line of communication between the Committee and tribal and state agencies with regulatory responsibilities and authority over ocean resources.**

4.9 The National Ocean Council's review of all existing ocean-related councils.

- **Again, the regional fishery management councils that were created under the 1976 Magnuson Act need to be maintained. These councils require a formal pathway for communication to the**

National Ocean Council (NOC) to avoid the artificial separation of fishery management decisions from those that directly affect essential fish habitat.

4.10 and 4.11 Regional Ocean Councils

- These recommendations require modification to fully recognize tribal treaty rights and resources. The current structure relegates the tribes to merely stakeholders within the federal advisory process for developing ocean policy. Currently within the draft report there is no recognition of the tribe's management authority or federal trust responsibility. The structure of the regional ocean councils requires modification to include a non-federal resource management entities comprised of tribal and state managers. This structure would provide a more appropriate government-to-government communication of tribal and state policy and positions to the NOC.

6.3 Marine Protected Areas

- This recommendation only can be supported by the tribes if there is a clear recognition of tribal rights and resources within this section. In addition, there should be a clear recognition that this management approach must be developed in conjunction with a comprehensive resource management plan for the targeted specie(s) or biota. Attached is our tribal policy statement for further guidance on this issue.

19.1 Scientific and Statistical Committee

- This recommendation must be amended to include tribal agencies. Tribal personnel have and continue to serve on the Pacific Council's SSC, as well as its other technical committees. Their expertise and professional standing can be recognized by the fact that numerous past committee members have served as chairs for their respective committees.

19.10 New Statutory Authority for the Pacific States Marine Fisheries Commission

- The tribes cannot support the development of new statutory authority for this Commission that does not formally recognize treaty rights or tribal management authority.

19-13 Regional Fishery Management Council Appointments

- The tribes oppose this recommendation to transfer the appointment responsibility to NOAA.. Currently, the tribal seat on the Pacific Council is appointed by the Secretary of Commerce in consultation with the Secretary of the Interior. This consultation process must be maintained.

The stature of the Council members would be diminished by a change to appointment from the Administrator of NOAA instead of a Secretarial appointment. The Pacific Council deals with several straddling stocks that require routine dealings with Mexican and Canadian governmental representatives. These foreign representatives make a distinction between presidential, secretarial, and agency appointments. Future discussions with these foreign representatives may become unduly complicated because of this recommendation.

30-1 Ocean Policy Trust Fund

There must be language that allows tribes direct access to funding on a par with states.

