

15-047288



Quinault Indian Nation

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November 23, 2015

The Honorable Penny Pritzker
Secretary of Commerce
United States Department of Commerce
1401 Constitution Ave., NW
Washington, D.C. 20230

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U S EXECUTIVE SECRETARIAT

Dear Ms. Secretary Pritzker,

I am formally requesting that you determine a commercial fishery failure for Grays Harbor and the Queets River due to a fishery resource disaster under Section 312 (a) of the Magnuson-Stevens Fishery and Conservation Act (Act), in response to exceedingly poor 2015 coho salmon returns. A determination of a commercial fishery failure would open the door to a congressional appropriation of funds that could ease the financial pressure that the poor salmon returns have placed upon Quinault Indian Nation (QIN) families.

The QIN is a federally-recognized Indian tribe and a signatory to the Treaty of Olympia (1856), by which it reserved the right of "taking fish, at all usual and accustomed fishing grounds and stations." The United States federal court recognized and confirmed those rights and established QIN as co-managers of off-Reservation fisheries resources, and entitled to half of the harvestable number of fish returning to waters constituting QIN's "usual and accustomed" fishing areas. *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974). Based on evidence provided, the court determined the usual and accustomed areas of the QIN include "the waters adjacent to their territory" and "Grays Harbor and those streams which empty into Grays Harbor." *Id.* at 374-375; see also *United States v. Washington*, 459 F.Supp. 1020, 1097 (W.D. Wash. 1978), *aff'd* 645 F.2d 749 (9th Cir.1981). The QIN's federally-protected treaty right guarantees every enrolled Quinault tribal member—now and into the future—the right to harvest any and all species of fish and shellfish, anywhere within the QIN's usual and accustomed area in perpetuity, subject only to restrictions intended to conserve the fisheries. However, in 2015, many QIN members have experienced harvest levels that are significantly lower than the previous five-year average.

QIN participated, along with federal and state co-managers, in preseason planning through the North of Falcon and Pacific Salmon Fisheries Commission processes to develop fishing plans to

share the harvest and distribute the conservation responsibility. After the ocean fisheries had been completed, and QIN's gillnetting season began, it became apparent that the number of wild coho returning to Grays Harbor and the Queets River was far below that required for spawning escapement. QIN was able to catch less than a third of the expected catch of 42,755 coho in the Grays Harbor and Queets river systems, before closing those fisheries for conservation purposes. The number of coho actually caught represents only 31% of the average number of coho caught in those river systems annually in the years 2010-2014. These returns have led the Quinault Business Committee (QBC), the governing body of the Quinault Indian Nation (QIN) to close its fisheries in the Grays Harbor and Queets River system on October 29, 2015.

In addition to the low numbers that are of concern to QIN fishers and staff, QIN fishers noted that the fish were much smaller than usual this season.

QIN has not determined why the coho returns have been so low, but some combination of ocean and climactic conditions appears likely. Cited concerns include the continued drought in Washington, the "blob" of warm water off of our coast, and the "Godzilla" El Niño event predicted for the coming winter. Regardless, the uncertainty created by these events, when combined with the failure of the coho run drove QIN to close the fisheries in order to heighten success of future runs.

Treaty fishing embodies values that cannot be quantified. However, because tribal members depend on fishing for commercial, subsistence, and recreational purposes, as well as ceremonial and cultural ones, the poor season and early closure have brought financial hardship on QIN families dependent on fishing income. The closure of the rivers will deny affected QIN fishers of 13-15 days of fishing, which represent between 28-48% of the entire season, depending on the river. The closure comes when coho catches, upon which many QIN members are highly dependent, have only reached 30% of the value of the catch from 2010-2014. While the catch of chinook salmon has been consistent with the five-year average, QIN would have been unable to provide adequate protection to the wild coho while continuing to fish. For the protection of all the salmon runs in the systems, QIN elected to close its fisheries even though harvestable fish from co-mingled runs were available.

Any funds that should arise from your determination of a commercial fishery failure due to a fishery resource disaster would assist tribal members placed in financial jeopardy from the weak returns of this year and help QIN to prepare for uncertainty in salmon run strength. If you have any questions, please contact attorney Peter Crocker at pcrocker@quinault.org. Thank you for your consideration.

Sincerely,



Fawn R. Sharp, President
Quinault Indian Nation

Department of Commerce
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