

March 18, 2019

Director Robyn Thorson
Region 1, Pacific
US Fish and Wildlife Service
911 NE 11th Ave.
Portland, OR 97232

Re: Jamestown S'Klallam Tribe's Dungeness Bay Oyster Farm

Dear Ms. Thorson:

For the past four years our Tribe has been working in good faith with the U.S. Fish and Wildlife Service (USFWS), Dungeness National Wildlife Refuge staff. As you are aware, the Tribe has been seeking to resume its shellfish growing and harvesting operations that were suspended in 2005 due to years of declining water quality in Dungeness Bay. For several decades prior to 2005, Pacific oyster cultivation occurred on the site of our Washington State DNR lease and Refuge managers at that time had no objection to the size and scale of our operations. We are now being informed that our proposed operations “will cause an unacceptable level of impact”¹ despite implementation of best farm management practices and site-specific conservation measures that are considerably less disruptive compared to past shellfish operations.

Dungeness Bay is the ancestral home of the Jamestown S'Klallam people. By signing the Treaty at Point No Point the S'Klallams ceded millions of acres of land to the United States but reserved all their rights to fishing and shellfishing within our “usual and accustomed” harvest area. Tribal commerce and trade was sophisticated at that time. As you know, the United States government has a federal trust obligation regarding a long list of terms both parties agreed to in 1855 and we do not expect these rights to be blocked or diminished. In addition, the Dungeness Bay tideland lease is covered by the settlement agreement arising from the Shellfish Litigation², and USFWS is party to that agreement.

Significant tribal, local, state and federal resources were devoted to improving water quality in Dungeness Bay, all with the clear goal of recovery to ‘Approved’ status for commercial shellfish harvesting. USFWS has been aware, through the Dungeness River Management Team and Clean Water Work Group, of this collaborative work and never raised concerns of compatibility. Furthermore, activities associated with oyster cultivation are noticeably absent from the 2013 Dungeness Wildlife Comprehensive Conservation Plan which we view as blatant oversight given the Tribe’s clear intentions

¹ See, USFWS Letter March 5, 2019. (FWS/RI/NWRS/FF01RWMT00)

² See, *United States, et al. v. State of Washington, et al.*, No. C70-9213. June 20, 2007. (W.D. Wash.)

for resuming commercial oyster harvest and the covered status of the tideland lease. We believe this exemplifies the poor communication, and hence relationship, that USFWS staff has had with the Tribe on this matter.

At this time, the scientific-basis of the USFWS determination regarding impacts from human disturbance and farm activities associated with the Tribe's project remains unclear. Our staff has worked extensively over the past year to acquire additional biological information and address the Refuge-specific recommendations identified in Attachment C of the original comment letter provided to Clallam County in April 2018. Despite on-going efforts made to share new scientific and biological information and maintain an open dialogue with Refuge staff, USFWS comment letters have been submitted to local and federal permitting authorities recommending new restrictions and establishing new concerns that had never been discussed with Tribal staff prior.

We firmly believe that the local positions are not scientifically-based but are political and even personal based. In our opinion, such actions are not viewed as being in good faith. Furthermore, we have yet to be provided with any data or evaluation associated with past aquaculture activities that support the conclusions made in this most recent correspondence. To say the obvious, our Tribe is angry about this recent USFWS correspondence and views. This recent action is wrong, and we are not going to accept it. We have been the stewards and conservationists of this area long before USFWS ever showed up. This is our Treaty and cultural backyard. Just because we are using 21st Century technology to harvest shellfish, as we do with finfish, we are not going to be denied.

We would like to meet with you personally to discuss these issues further prior to seeking any legal action. If your office would please coordinate scheduling with Ann Sargent, 360-681-4661, asargent@jamestowntribe.org. We look forward to meeting with you.

Sincerely,



W. Ron Allen, Chairman/CEO

Cc: Nathan Dexter, USFWS Native Liaison
Roy Elickor, USFWS Assistant Regional Director
Kristen Swenddal, DNR Aquatic Resources Division Manager
Joenne McGerr, DNR Tribal Relations Director