

Treaty Rights and Tribal Natural Resources Management

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Tulalip Tribes

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Some History

- For ~ 10,000 years —————



Tribes and the Marine Ecosystem

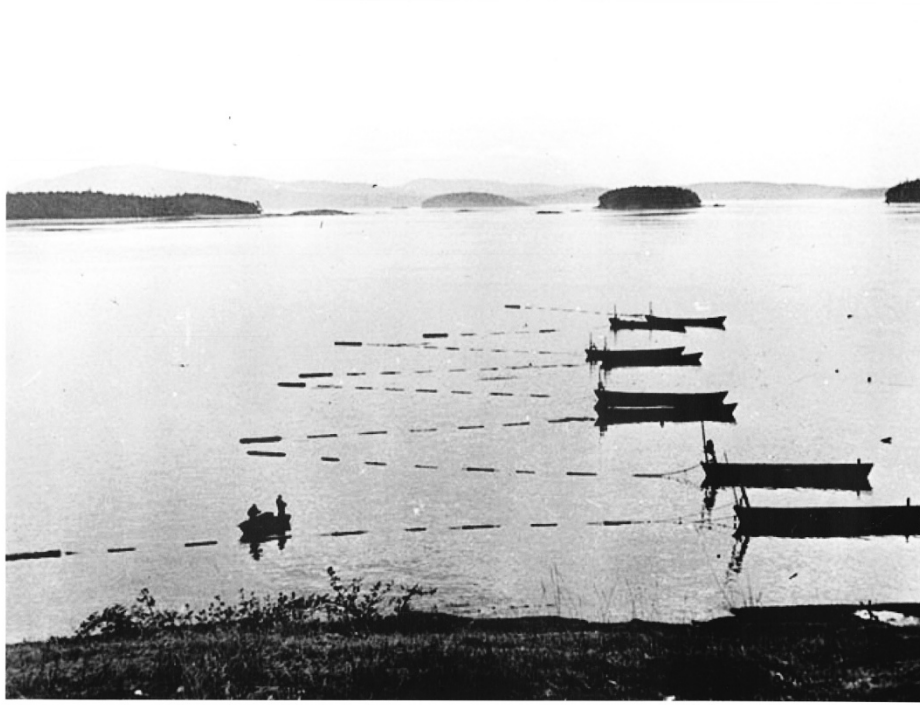
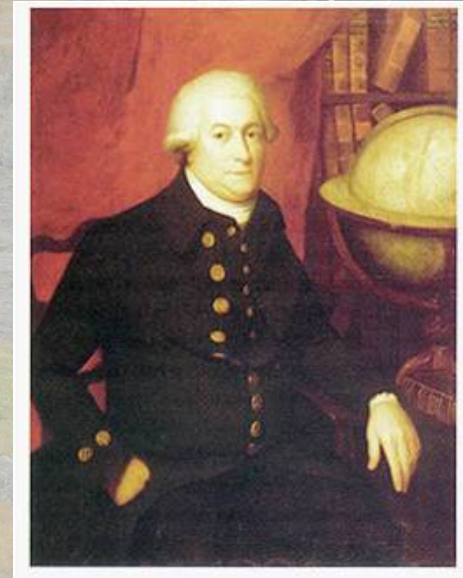


Photo courtesy of Randy Kinley, Lummi Nation

- Native people are part of the natural ecosystem
- “The water is our land”
- “When the tide is out, our table is set.”
- If the ecosystem ceases to function, the culture is gone

Some History

- For ~ 10,000 years
- June 4, 1792



First Contact



<http://www.kingslynnonline.com/kings-lynn-history-town.php>

<http://www.nwrain.com/~newtsuit/uas/vancouver.html>

Some History

- For ~ 10,000 years
- June 4, 1792
- January 22, 1855



At Treaty Time



- Tribes devastated by disease
- Great tribal interest in the treaty
 - Si-ahl 1854 speech was part of the negotiation
 - 2300 attended Point Elliott signing
- Settlers waiting for treaty to be signed
- Non-Indian fishing quickly ramped up

Ceded Areas

- Medicine Creek Treaty
(Dec 26, 1854)
- Point Elliot Treaty
(Jan 22, 1855)
- Point No Point Treaty
(Jan 26, 1855)
- Neah Bay Treaty
(Jan 31, 1855)
- Quinault Treaty
(Jul 1, 1855)



Terms of the Treaties



JAMES BUCHANAN,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas a treaty was made and concluded at Muckl-te-oh, or Point Elliott, in the Territory of Washington, the twenty-second day of January, one thousand eight hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the hereinafter-named chiefs, headmen and delegates of the Dwamish, Suquamish, Sk-tahl-mish, Sam-ahmish, Smalh-kahmish, Skope-nhmish, St-kah-mish, Snoqualmoo, Skai-wha-mish, N'Quentl-ma-mish, Sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-a-mish, Squin-ah-mish, Sah-ku-meha, Noo-wha-ha, Nook-wa-chah-mish, Mee-see-qua-guilch, Cho-bah-ah-bish and other allied and subordinate tribes and bands of Indians occupying certain lands situated in said Territory of Washington, on behalf of said tribes and duly authorized by law; which treaty is in the following words and figures to wit:

Articles of agreement and convention made and concluded at Muckl-te-oh, or Point Elliott, in the Territory of Washington, this twenty-second day of January, eighteen hundred and fifty-five, by Isaac I. Stevens, governor and superintendent of Indian affairs for the said Territory, on the part of the United States, and the undersigned chiefs, headmen, and delegates of the Dwamish, Suquamish, Sk-tahl-mish, Sam-ahmish, Smalh-kamish, Skope-ahmish, St-kah-mish, Snoqualmoo, Skai-wha-mish, N'Quentl-ma-mish, Sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-a-mish, Squin-ah-mish, Sah-ku-meha, Noo-wha-ha, Nook-wa-chah-mish, Mee-see-qua-guilch, Cho-bah-ah-bish, and other allied and subordinate tribes and bands of Indians occupying certain lands situated in said Territory of Washington, on behalf of said tribes, and duly authorized by them.

ART. I. The said tribes and bands of right, title, and interest in and to the Indians hereby cede, relinquish, and lands and country occupied by them, convey to the United States all their bounded and described as follows: Com-

- Tribes gave up
 - title to land
 - right to make war on U.S.
- Tribes received
 - small reservations
 - small monetary payments
 - protection by the U.S. government
- Tribes retained
 - a portion of fishing, hunting and gathering rights

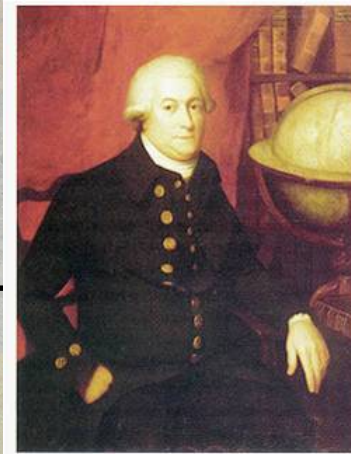
Treaty-Retained Rights

- “. . . fish at usual and accustomed grounds and stations . . . **in common with** all citizens of the territory . . .”
- hunt and gather on “open and unclaimed lands”
(Article 5)

A portion of the above rights were retained by the tribes. The rest were granted by the tribes to the US and its citizens.

Some History

- For ~ 10,000 years
- June 4, 1792
- January 22, 1855
- February 12, 1974



Changing US Policy

- Isolation
(1850s- 1880s)
- Assimilation
(1890s – 1920s)
- Self-Government
(1930s – 1940s)
- Termination
(1950s)



Increased Fishing Conflicts



www.rutledge.com



Seattle Times, 1964

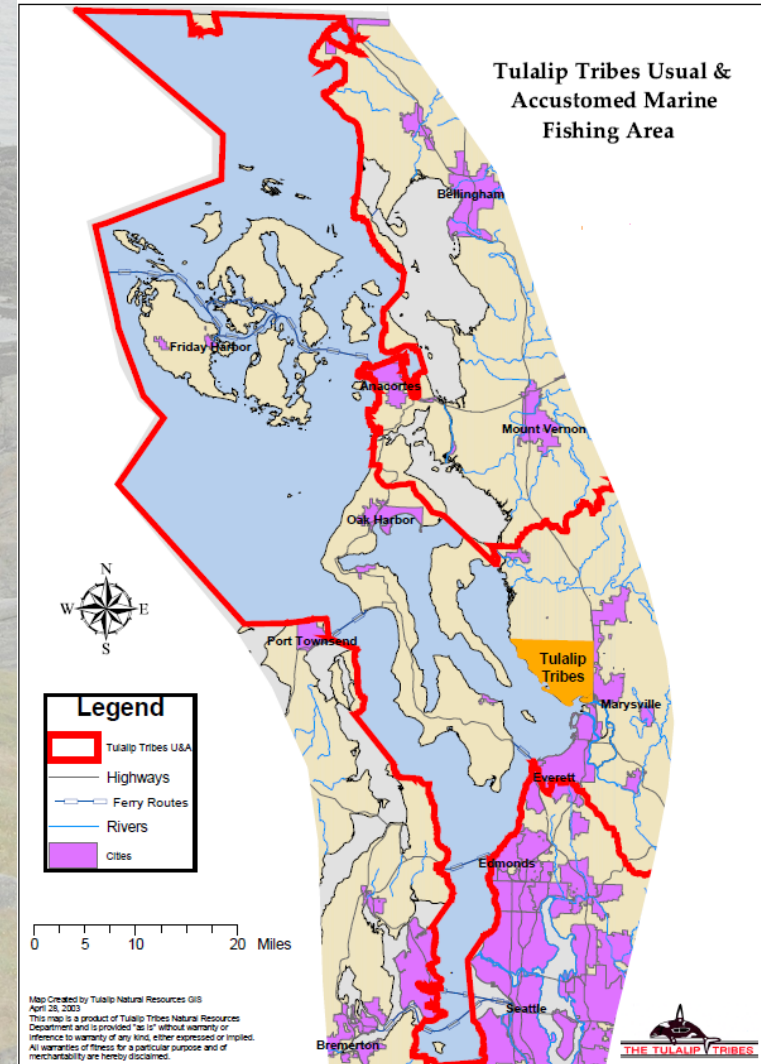
Boldt Decision



- Reviewed all previous cases
- Filled in missing pieces
 - “In common with” means 50-50 sharing of harvestable
 - “Usual and Accustomed fishing grounds and stations” defined
 - Comanagement authority and responsibility defined
- Phase II
 - Gave right to hatchery fish
 - Rights to protect habitat for fish though later overturned... tribes asked to bring a specific damage claim
- Culvert Case
 - Gave rights to provide fish access to habitat
 - Upheld by US Supreme Court

Usual and Accustomed Fishing Areas: Tulalip Tribes Example

- Different for every tribe, overlapping
- Tribal fishing is confined to the U&A area. Can't go outside.
- Generally defines extent of *fisheries* management interest



Principles of Co-management

- Tribes and State share authority and responsibility for the resources
- One shared resource
 - Shared management objectives
 - Shared data
 - Joint management plans
- Tribes and State are self-regulating
 - Promulgate own regulations pursuant to mgt. plans
 - Enforce own regulations

Tribal Natural Resource Management



- Tribal members participate in full cycle of management
- Tribes sit on, and lead, international, national, state, and local groups

Fish Passage—Engineering a Stream (and Habitat?)



Removing the Barriers



Productive Recovery



*Calling back the
salmon spirit*

