



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548



October 30, 2020

The Honorable Wilbur Ross
 Secretary of Commerce
 United States Department of Commerce
 1401 Constitution Avenue, NW
 Washington, DC 20230

RE: Commercial Fishery Disaster Declaration for the 2019 Yurok Klamath River Commercial Fishery

Aiy-ye-kwee':

On behalf of the Yurok Tribe, I write this letter to respectfully request a response to our May 11th, 2020 letter (attached) that sought your declaration, under the authority of the Magnuson Steven Act, that the 2019 Yurok Commercial Fishery was a failure. It has been nearly six months since we sent this letter, therefore I'm writing to confirm that you received our letter and that our request is receiving proper consideration.

As noted in the attached letter, along with the April 8th resolution of the Yurok Council, our commercial fishery in 2019 was an utter failure due to the unexpected depleted status of the Klamath Fall Chinook run; less than 38% of the projected run actually returned to the river. Yurok People have been severely impacted by the recent decline of Klamath Fall Chinook abundance, resulting in far too few fish to meet our subsistence needs, as well as negligible commercial fishing opportunity since 2015. A declaration by the Secretary that we experienced a commercial fishery failure during 2019 is requested, as this is a necessary step in the process for us to be eligible to receive disaster relief funding to help off-set these devastating impacts.

In summary, I request that you respond to our May 11th letter at your earliest convenience, by declaring that the Yurok Tribe experienced a commercial fishery failure in 2019. If you have any questions or would like to discuss the status of our fishery, please don't hesitate to contact me at the address in the letterhead.

Wok-hlew'

Joseph L. James, Chairman.

cc: Chris Oliver, Assistant Administrator for Fisheries, NOAA Fisheries
Barry Thom, Regional Administrator, NOAA Fisheries, West Coast Region

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RE: Commercial Fishery Disaster Declaration for the 2019 Yurok Klamath River Commercial Fishery

Aiy-ye-kwee':

The importance of the Klamath River and the fishery it supports to the Yurok People cannot be overstated. Yurok people have lived along the Klamath River and relied on the Klamath River salmon fishery for survival since time immemorial. The courts have acknowledged that the Klamath River Indian fishery is "not much less necessary to the existence of the [Yurok] Indians than the atmosphere they breathed."¹

Due to natural and man-made factors beyond the Tribe's control, the 2019 Klamath River fall Chinook run was not large enough for the Yurok Tribe to conduct a profitable commercial fishery. During 2019, the Yurok Tribe's Fall Chinook allocation was 29,161 fish, of which up to 15,000 were allocated for our commercial fishery with the remainder for subsistence and ceremonial use². However, our commercial harvest was only 2,129³ or 14.2% of the commercial allocation and our total harvest was only 3,909, or 13% of our allocation. The projected fish run did not materialize, in fact the run of fish in the river was only 38% of the preseason projection and the age-4 component of the run, the driver of our fishery, was over projected by 6.2 times. Less than half of the natural spawning escapement objective of 40,700 natural spawning adults returned to spawn in 2019.

This is the fourth consecutive year our people have either been unable to receive, or received extremely low, economic opportunity from our fishery. The 2016-2018 fall Chinook seasons were dedicated toward subsistence and ceremonial needs, given the extremely low projected stock sizes, and no economic opportunity was available. The impacts from having extremely low fishery related commerce available for our tribal members during the past four years has been severe. Tribal fishers,

¹ *Mattz v. Arnett*, 633 F.2d 906, 909 (9th Cir. 1981), 412 U.S. 481 (quoting *United States v. Winans*, 198 U.S. 371, 381 (1905)).

² Williams, D., and K. Parker. 2020. Yurok Tribe Fall Fishery Monitoring Report – Fall 2019, Annual Report to The Bureau of Reclamation Annual Funding Agreement, Project FY 19, Requa, CA.

³ Pacific Fisheries Marine Council. 2020. Review of 2019 Ocean Salmon Fisheries - Stock Assessment...for the Pacific Coast Salmon Fishery Management Plan, Appendix B, Table B-5.

who rely solely on the income from the commercial season to provide for their families, have suffered a complete loss of annual income. Tribal businesses supporting the fishery have also lost annual income made on the fishery. This loss of economic opportunity has resulted in substantial financial hardship for our people, which has exacerbated the existing poor economic climate of the community, a significant portion of which already live below the poverty level.

In light of the failed commercial fishery during 2019 and its devastating impacts, I am requesting that you use your authority under Section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to declare a commercial fishery failure for the Yurok Klamath River fishery. The causes of poor recruitment are associated with poor ocean conditions, drought, Klamath River water quality and fish disease, all of which are beyond the control of the Tribe to mitigate through our diligent conservation and management efforts. It is our understanding your determination of a commercial fisheries failure is needed for our fishing community to receive economic disaster relief under the MSA. You are the key to ensuring that the Tribe's fishers, who support the conservation of our fishery resource for future generations, are not forced further into financial destitution as a result of their inability to harvest a profitable number of commercial fish during 2019. We have attached a declaration by the Yurok Tribal Council declaring the 2019 fall fishery a disaster on the Yurok Reservation.

We appreciate your consideration of the Tribe's request and look forward to hearing from you.

Wok-hlew'



Joseph L. James, Chairman.

cc: Chris Oliver, Assistant Administrator for Fisheries, NOAA Fisheries
Barry Thom, Regional Administrator, NOAA Fisheries, West Coast Region
California Delegation



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RESOLUTION

of the

YUROK TRIBAL COUNCIL

- RESOLUTION NO:** 20-42
- DATE APPROVED:** April 8, 2020
- SUBJECT:** **Klamath River Commercial Fisheries Disaster Declaration 2019 and Request for Federal Fisheries Disaster Relief Funding**
- WHEREAS:** The Yurok Tribe is a federally recognized Tribe; and
- WHEREAS:** The Yurok Tribal Council is the governing body of the Yurok Tribe under the authority of the Yurok Constitution of 1993; and
- WHEREAS:** The Yurok Tribe is eligible for all rights and privileges afforded to federally recognized Tribes; and
- WHEREAS:** The Yurok People have lived along the Klamath River since time immemorial, surviving from its plentiful runs of salmon and other species. The Yurok Tribe has federally reserved fishing and water rights confirmed in various court cases; and
- WHEREAS:** The Klamath River Indian fishery is a primary source of income and economy for the Yurok people; and
- WHEREAS:** The Yurok Tribe has dedicated the majority of its resources to protecting, conserving, and restoring the Klamath River fishery. The Tribe participates in an annual tribal commercial and subsistence harvest of fall Chinook salmon. The Tribe's Fisheries Department and the Tribal Council set sustainable harvest allocations each year in conjunction with the offshore fisheries; and
- WHEREAS:** Despite the Yurok Tribe's diligent efforts to conserve the Klamath River fishery and due to natural and man-made factors beyond the Tribe's control, the 2019 Klamath River fall chinook salmon run was one of the lowest on record. The return of adult fall Chinook to the river was approximately 38% of what had been projected, and the age-4 component of the run, the driver of the Yurok fishery, had been over-projected by 6.2 times.

WHEREAS: Klamath Fall Chinook were managed to meet the maximum sustained yield natural adult spawning escapement level of 40,700 fish in 2019, yet there were only 20, 245 natural adult Fall Chinook that returned to spawn.

WHEREAS: Based on the pre-season projection, the tribe anticipated having the first commercial fishery in four years during 2019, however this fishery was a complete failure due to the lack of fish. During 2019, we targeted 29,161 fish (subsistence and commercial combined, reservation-wide), yet we only harvested 3,909 adult Fall Chinook due to the lack of fish; and

WHEREAS: Yurok Tribal members suffered a significant loss in income due to the closure. Tribal fisherman did not receive the annual benefit of income from the fishery. Tribal businesses supporting the fishing industry did not receive the benefit of annual income made on the fishery. This caused significant economic hardship to the Yurok Tribe, its members, and businesses; and

WHEREAS: This hardship constitutes a commercial fishery disaster warranting disaster relief funding pursuant to the Magnuson Stevens Act, 16 U.S.C. § 1861a.

NOW THEREFORE BE IT RESOLVED: That the Yurok Tribal Council hereby declares a Klamath River Yurok Commercial Fishery disaster, and

BE IT FURTHER RESOLVED: The Yurok Tribal Council hereby requests Federal funding for commercial fisheries disaster relief, and

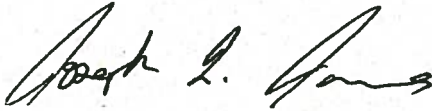
BE IT FURTHER RESOLVED: That nothing in this resolution shall be construed as a waiver of the Yurok Tribe's sovereign immunity, and

BE IT FURTHER RESOLVED: That the Chairperson is hereby authorized to sign this resolution and to negotiate all matters pertaining hereto and that the Council Secretary is authorized to attest.

C*E*R*T*I*F*I*C*A*T*I*O*N

This is to certify that this Resolution Number 20-42 was approved at a duly called meeting of the Yurok Tribal Council on April 8th, 2020 at which a quorum was present and that this Resolution Number 20-42 was adopted by a vote of 7 for and 0 opposed and 0 abstentions in accordance with Article IV, Section 5(j) of the Constitution of the Yurok Tribe. This Resolution Number 20-42 has not been rescinded or amended in any way.

DATED THIS 8th DAY OF APRIL, 2020



Joseph L. James, Chairman
Yurok Tribal Council

ATTEST:



Sherri Provolt, Secretary
Yurok Tribal Council