



# LUMMI INDIAN BUSINESS COUNCIL

2665 KWINA ROAD BELLINGHAM, WASHINGTON 98226 (360) 312-2000

DEPARTMENT \_\_\_\_\_ DIRECT NO. \_\_\_\_\_

October 28, 2013

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

**SUBJECT: 2013 Fraser River Sockeye Fishery Disaster for the Lummi Nation**

Dear Ms. Secretary Pritzker,

I, formally request you declare an economic fishery disaster, pursuant to Section 312(a) of the Magnuson-Stevens Fishery and Conservation and Management Act (Act), so disaster relief assistance can be provided to fishermen who were adversely impacted by the non-existent 2013 Fraser River sockeye run. The Lummi Nation is urging your office to act quickly to mitigate this situation. Prompt efforts by your Department are critical in helping the fishermen get the disaster relief, funds and assistance they are entitled to in a timely manner.

On, September 20<sup>th</sup>, 2013, the Lummi Indian Business Council, governing body of the Lummi Nation, declared a natural disaster under the Tribal provisions of the Robert T. Stafford Act and economic fishery disaster under the provisions of the Magnuson-Stevens Act. The non-existent 2013 Fraser River sockeye run is due to many factors and most notably the abnormal high water temperatures which were the highest ever recorded. These abnormal high water temperatures diverted the Fraser River sockeye to take the northern route around the San Juan Islands to the Fraser River. The Lummi Nation and co-managers of the Fraser River sockeye fishery were forced to prohibit any commercial harvest for the Lummi fishing fleet, in an effort to preserve future sockeye harvest and comply with Federal laws and statutes and the Pacific Salmon Treaty.

It is estimated that the Lummi Nation fishing fleet of 626 fishers lost \$1.3 million dollars; this estimate is based on the pre-season run harvest of 95,000 fish by Lummi fishers, estimating an average weight of 6 pounds per fish and an estimated average market rate of \$2.30 per pound. The non-existent Lummi harvest for Fraser River sockeye has had negative impacts to the way of life, cultural, spiritual and traditional ties to the sockeye, these negative impacts are irreversible. The financial impact the fishermen have endured is as equally important during the non-existent sockeye fishery and threatens the fishermen to harvest a quantity of fish sufficient to ensure a modest living.

The importance of subsistence, ceremonial and commercial fisheries is an integral part of the way of life and identity to the Lummi Nation. Where pre-contact to Europeans the Lummi

Nation had survived, prospered and thrived by exercising these inherent rights. The 1974 federal court decision in *United States v. Washington* affirmed the Stevens Treaty tribes the treaty right to half of the harvestable salmon and established these tribes as co-managers of Washington state fisheries. As a sovereign nation and federally-recognized tribe, the Lummi Nation has the right to request and receive disaster assistance as administrated under your office and Congress may appropriate these funds. With no sockeye salmon to harvest, no sockeye fish for families and no income for fishing families, the Lummi Nations fishing community is in despair and in need of expedited financial assistance and relief.

In a letter written on May 27, 2011, to the Lummi Nation from the Department of Commerce, it determined that the 2009 Fraser River sockeye fishery would be the last continuation of the 2002 Fraser River sockeye fisheries disaster. If the Department of Commerce determines that a continuation of the 2002 Fraser River sockeye fisheries disaster is unattainable, please under your authority in cooperation with the National Oceanic and Atmospheric Administration, National Marine Fisheries and the Lummi Nation, coordinate with all parties to re-issue a Fisheries Economic Disaster Declaration as authorized under the Section 312(a) of the Magnuson-Stevens Fishery and Conservation and Management Act.

If you have any questions, please contact Travis C. Brockie Jr., Policy Analyst for the Lummi Nation, at 360-312-2000 Ext. 2149 or [travisb@lummi-nsn.gov](mailto:travisb@lummi-nsn.gov).

Sincerely,



Tim Ballew II, Chairman  
Lummi Nation

***Enclosures:***

2013 Lummi Declaration of Natural Disaster and an Economic Fisheries Disaster  
2011 Letter from Commerce Response on Requesting Determination

CC: The Honorable Patty Murray, US Senator  
The Honorable Maria Cantwell, US Senator  
The Honorable Suzan DelBenne, Congresswoman



# LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA ROAD • BELLINGHAM, WASHINGTON 98226 • (360) 384-1489

## **RESOLUTION #2013-127 OF THE LUMMI INDIAN BUSINESS COUNCIL**

**TITLE: 2013 Lummi Declaration of Natural Disaster under the Tribal provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and an Economic Fisheries Disaster under the provisions of the Magnuson-Stevens Act.**

**WHEREAS**, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

**WHEREAS**, under Article VI Section 1 of the Lummi Nation Constitution, the Lummi Indian Business Council has the power and duty to protect and promote the health and education of the Lummi people; and

**WHEREAS**, since time immemorial the sockeye fishery for the Lummi Nation has been the main staple salmon species and in recent years has been the most profitable of all salmon species, the decline of the Fraser River sockeye in the past 30 years has forced fishermen to seek other fishery treaty right opportunities; and

**WHEREAS**, the non-existent 2013 Fraser River sockeye run negatively impacts and disturbs our way of life, culture, and spirituality and the traditional ties to the Fraser River sockeye salmon is irreplaceable; these negative impact far outweighs the financial impact but the lack of sockeye placed a strain on our fisherman to be able to put food on their families tables and pay for basic living costs; and

**WHEREAS**, the 2013 Fraser River sockeye salmon run followed water temperature differential and took the northern route around the San Juan Islands outside of US waters; the Fraser River temperatures were the highest ever recorded and were actually lethal to sockeye necessitating US and Lummi Nation fisheries managers action to prohibit the harvest of any and all sockeye present in US water in order to preserve this naturally occurring blessing of sockeye salmon for the future, thereby denying Lummi Nation members of any share of the projected pre-season return at 4.765 million sockeye salmon because all were needed for escapement; and

**WHEREAS**, the Lummi Nation estimates that its fishing fleet lost \$1.3 million dollars, this estimate is based on the pre-season run harvest estimate of 95,000 fish by Lummi fishers, estimating an average weight of 6 pounds per fish and an estimated average market rate of \$2.30 per pound; and

**WHEREAS**, the Lummi Nation's members are under extreme economic distress due to fundamental changes in the world salmon market, unprecedented low salmon prices and chronic low returns of salmon due to the lack of appropriate and effective actions to carry out the trust



and fiduciary responsibilities of the Federal government to the Lummi Nation and other tribal governments i.e. ESA, US/Canada Treaty and long term neglect of resources essential to the Tribes to maintain our Sche' lang' en; and

**WHEREAS**, changes in the world salmon market are due to factors beyond the Lummi Nation's control, including the rapid growth in production of farmed salmon in foreign nations such as Chile, Norway, and increasing farm fish production in Canada and Washington State, that have displaced traditional markets for Lummi fishers and fishers in Washington, Oregon and California; and

**WHEREAS**, in 2002, 2007, 2008 the US Department of Commerce issued a Fisheries Economic Disaster Declaration for the Lummi Nation Fisheries under the authority of the Magnusson/Stevens Act and this economic fisheries disaster is continuing well into the foreseeable future; and

**WHEREAS**, since the Lummi Nation Salmon Crisis began in 1999, the prices paid for premium sockeye are 80% less and the gross earnings from commercial fishing salmon harvest, in local waters, has fallen by 83%; the Lummi Nation is an economically distressed community that lacks economic alternatives for job opportunities for its 4,807 membership which has endured a 40% drop in available fishing industry related jobs (At its zenith Lummi Nation post-Boldt Decision fishing industry employed approximately 2,000 members of the Lummi Nation, which pales in comparison to the comparable need); and

**WHEREAS**, the Lummi Nation government suffers from a severe reduction (approximately 50% reduction) in tax revenues from the fishing industry, which pay for essential community services for all members of the Lummi Nation; and

**WHEREAS**, the fish is as important to Lummi people as the air we breathe; and

**THEREFORE BE IT RESOLVED**, the Lummi Indian Business Council exercising its authority under the newly amended US Stafford Disaster Assistance and Emergency Relief Act proclaims and declare that a natural disaster exists, that persistent unusually hot weather combined with the impact of climate change experienced in the usual and accustomed fishing areas of the Lummi Nation, and in other US and Canadian waters, including in and around the San Juan Islands, caused the diversion of the 2013 sockeye salmon run from the southern route to the northern route to the Fraser River and that temperatures of the Fraser River during the sockeye salmon run being the highest ever recorded were actually lethal to the sockeye, necessitating U.S. and Lummi Nation fisheries managers to prohibit any and all taking of sockeye in U.S. waters to save the run for future years, thereby denying to Lummi Nation fishers any share of this economically significant salmon run and creating the conditions that justify declaring the Lummi Indian Reservation as an Economic Fishery Resource Disaster Area under the authority of Magnusson-Steven Act; and



**BE IT FURTHER RESOLVED**, that the Lummi Nation hereby provides notice to the U.S. Federal Government and the State of Washington that it expects them to meet their Treaty, trust, fiduciary, statutory and moral obligations to the Lummi Nation and its people; and

**BE IT FURTHER RESOLVED**, that (1) Lummi Nation Fishers who have been dependent on the commercial salmon fisheries are in a state of transition and need number of services and financial assistance to survive in the intervening years as the fishing industry transitions into new financial arrangements, business structures and appropriate marketing, (2) the Lummi Nation Fishing Industry needs financial and technical assistance to plan, develop and implement the changes needed to restore their natural and economic feasibility through the propagation of both Wild and Hatchery fish stocks as maybe feasible and (3) the Lummi Nation needs financial and technical assistance to explore opportunities for fisheries and economic diversification, all of which is needed to maintain the fishing industry as a viable part of the Lummi Nation Tribal way of Life and the region's economy; and

**BE IT FURTHER RESOLVED**, that the Lummi Nation, in a government-to-government relationship, requests President of the United States to declare a natural disaster under the Tribal Provisions of the Stafford Disaster Relief and Emergency Assistance Act and an Economic Fisheries Disaster as authorized under the Magnusson-Stevens Act to provide the people of the Lummi Nation assistance as herein requested and requests the President of the United States to grant or seek Lummi Nation access to the assistance herein requested; and

**BE IT FURTHER RESOLVED**, that the Lummi Nation is a federally recognized Tribe under the Point Elliott Treaty of 1855 between the Lummi Nation and the United States of America and governs the Lummi Indian Reservation pursuant to the Constitution and Bylaws of the Lummi Indian Reservation, Washington as Amended, and possesses treaty fishing rights recognized by the United States Courts

**BE IT FURTHER RESOLVED**, that the Lummi Nation shall take the following actions in response to this natural and economic disaster declaration; and

1. The Lummi Nation Chairman will write the President of the United States to request that he issue a formal natural disaster declaration under authority of the Stafford Disaster Relief and Emergency Assistance Act and declare the Lummi Nation usual and accustomed fishing areas as a Fisheries Economic Disaster Areas under the authority of the Magnusson-Stevens Act and to insure that he is aware of the seriousness of the situation and to request his assistance in marshalling federal resources and seeking additional federal funds to assist in diversifying the economy of the Lummi Nation; and
2. The Lummi Nation Natural Resources Department will pursue needed research and research funding that taps the knowledge and skills of local people and organizations on the biology and science of salmon runs and other economically viable fish species of Washington and Canadian ecosystems; and



3. The Lummi Nation Economic Development Department will develop access to funding needed to support programs, services functions and activities needed to improve marketing opportunities for Lummi Wild and Hatchery Reared Salmon including local and regional, retail, cannery and institutional marketing strategies; and
4. The Lummi Nation hereby authorizes its existing Fish Disaster Response Committee to coordinate all Tribal and non-Tribal agency responses to the economic disaster consistent with their existing statutory authority to assist fisher families to develop short, intermediate and long-term disaster relief goals and objectives as well as strategies for fisheries and economic diversification including the following:
  - A. Fisheries Disaster Response Committee will provide comprehensive information to families about the existing programs available from state and federal agencies for home heating, energy, employment and training, subsistence, health and social services, economic development funding, and other essential services; and
  - B. Recognizing that this economic disaster results in cash shortage for basic individual and family living expenses and funds needed to support the continuation of their individual and family based fisheries related and/or supported businesses, the Fisheries Disaster Response Committee will assist in collecting the necessary background data to support multiple requests for additional federal funds if the amount currently available is not adequate to meet the needs of recipients eligible for existing federal programs operated by the Lummi Nation; and
  - C. Fisheries Disaster Response Committee will work with the Lummi Nation Family Services Department (LNFS Department) and Lummi Nation fishers families to develop and expedite applications for Low Income Assistance Services provided by the LNFS Department and the LNFS Department will develop and forward requests to the federal government as additional financial and technical assistance funds are deemed necessary; and
  - D. Fisheries Disaster Response Committee will work with the Lummi Nation Funding Office to develop an application to the State Department of Employment Services to fund the Lummi Nation Rapid Response Unit to support a tribally developed comprehensive survey of the needs of the affected families, including the need for training to improve the skills of Lummi Nation Fishers, the operational efficiencies of their vessels and gear and the overall profitability of the Lummi Nation Fishing Industry including financial assistance in retraining for alternative occupations leading to an extension and expansion of the existing Lummi Nation Fishers Project funded under the DOL- National Emergency Grant Program and a formal re-designation of this grant as a Disaster National Emergency Grant; and

- E. Fisheries Disaster Response Committee will utilize the Lummi Nation Declaration of a Natural Disaster to request that the Bureau of Indian Affairs facilitate the release of disaster and emergency general assistance grant funds to the Tribe pursuant to 25 CFR part 20 BIA.

**BE IT FINALLY RESOLVED**, that the Chairman (or Vice Chair in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

**LUMMI NATION**

  
**Timothy Ballew II, Chairman**  
Lummi Indian Business Council

**CERTIFICATION**

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2013-127 was adopted at a **Regular/Special** Meeting of the Council held on the 20<sup>th</sup> day of Sept., 2013, at which time a quorum of 7 was present by a vote of 6 for, 0 against, and 0 abstention(s).



  
**Jeremiah Julius, Secretary**  
Lummi Indian Business Council



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Secretary of Commerce**  
Washington, D.C. 20230

May 27, 2011

Mr. Chris Colte  
Chairman, Lummi Nation  
Lummi Indian Business Council  
2616 Kwina Road  
Bellingham, WA 98226

Dear Mr. Colte:

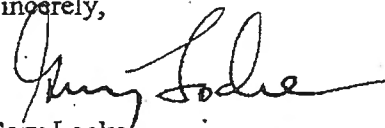
Thank you for your letter requesting determination of a commercial fishery failure due to a fisheries resource disaster under the Magnuson-Stevens Fishery Conservation and Management Act. I have reviewed your request to declare that the 2002 Fraser River sockeye fisheries disaster be continued into the 2009 fishery. I have determined, under section 312(a) of the Magnuson-Stevens Act, that the disaster continued to exist for the Fraser River sockeye fisheries in the 2009 fishery. This determination is based on a combination of natural and unknown factors predominantly outside the control of fisheries managers to mitigate through conservation and management measures.

This determination provides a basis for Congress to appropriate disaster relief funding under the Magnuson-Stevens Act, section 312(a) and for the National Marine Fisheries Service (NMFS) to provide assistance to the State of Washington and affected communities. If Congress appropriates disaster relief funding, the NMFS Northwest Region will work with the Lummi Nation and the State of Washington to develop an economic spending plan to support activity that would restore the fishery or prevent a similar failure and assist the affected fishing communities. Section 312(a)(3) requires that the Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

According to the Pacific Salmon Commission, the 2010 Fraser River run size is the largest since 1913. As a result, U.S. tribal and non-tribal ex-vessel revenues have increased from the extreme low of \$76,000 in 2009 to an extreme high of \$15.7 million in 2010. Although we have determined a continuation of the 2002 disaster into the 2009 fishery, the Fraser River stock is rebuilding and, unless new information is produced, this will be the last continuation of the 2002 disaster determination.

If you have any questions, please contact April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

  
Gary Locke

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