

15-043432



# Lower Elwha Klallam Tribe

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OS EXECUTIVE SECRETARIAT

February 25, 2015

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

**Re: 2014 Fraser River Sockeye Fishery Disaster and Commercial Fishery Failure for Lower Elwha Klallam Tribe and Its Members**

Dear Secretary Pritzker:

On behalf of the Lower Elwha Klallam Tribe—which holds treaty fishing rights under the 1855 Treaty of Point No Point with the United States—I am formally requesting that a commercial fishery failure and economic fishery disaster be declared under Section 312(a) of the Magnuson-Stevens Fishery and Conservation and Management Act. This will allow fishers who were negatively affected by the migration route of 2014 Fraser River sockeye to be provided disaster relief. Although the overall Fraser River sockeye run size was large, an abnormally high migration diversion rate through Canadian waters resulted in a severe reduction in commercial Fraser sockeye harvest for Lower Elwha fishers. Approximately 96% of Fraser sockeye returned to the river by migrating through Johnstone Strait (Canadian waters) rather than the Strait of Juan de Fuca (U.S. waters within the Tribe's adjudicated Usual and Accustomed treaty fishing area). The Lower Elwha Klallam Tribe was able to open a fishery, but because only a tiny fraction of the Fraser sockeye return passed through U.S. waters, harvest was exceedingly low. This followed two prior seasons of little to no harvest opportunity in 2012 and 2013. The Lower Elwha Tribe urges a prompt response, which will allow our fishers to quickly obtain the disaster relief funds and support they are entitled to.

The Fraser sockeye fishery is extremely important to Lower Elwha fishers, and the severe reduction in harvest affects the entire Tribe. Commercial Fraser sockeye harvest not only contributes significantly to annual fisher income, but also provides a ceremonial and subsistence food source for use by *all* community members throughout the winter months. The Lower Elwha Tribe is a fishing tribe, and as such every member and family relies on the benefits provided by the Fraser sockeye fishery, in combination with other fisheries. With so few Fraser sockeye available to harvest because of their migration route this last year, and two prior years of extremely limited fishing opportunity, the entire community suffers and needs financial relief to endure this challenging time.

As a federally recognized, sovereign treaty tribe, we have the right to request and receive disaster assistance under the Department of Commerce and Congressional appropriation. We ask that under your authority and in cooperation with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and the Lower Elwha Klallam Tribe, you coordinate with all parties to issue a Fisheries Economic Disaster Declaration as authorized under Section 312(a) of the Magnuson-Stevens Fishery and Conservation and Management Act.

Thank you for your consideration in this matter.

Sincerely,

  
Frances G. Charles, Chairwoman  
Lower Elwha Klallam Tribe

cc: The Honorable Patty Murray, U.S. Senator  
The Honorable Maria Cantwell, U.S. Senator  
The Honorable Derek Kilmer, Congressman



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### RESOLUTION 22- 15

#### Declaration of Economic Disaster for Lower Elwha Klallam Tribal Fishers

**WHEREAS**, the Lower Elwha Klallam Community Council is the governing body of the Lower Elwha Klallam Tribe (LEKT) in accordance with its Constitution and By-Laws, approved by the Secretary of the Interior on April 29, 1968, the Indian Reorganization Act of June 18, 1934, and the Treaty of Point No Point of 1855; and

**WHEREAS**, the LEKT Business Committee is the duly elected representative body of the Tribe, and is responsible for ensuring the Health, Safety, Education, Welfare, Economic Development, Natural Resources, Law and Order, Judicial Services, Housing and most importantly to preserving the Culture, Treaty Rights and otherwise promoting the welfare of our Indian People; and

**WHEREAS**, the 2014 Fraser River sockeye salmon run returned over 20 million fish and was expected to provide a harvest opportunity of 2 to 4 weeks for four or more LEKT fishing boats, yielding a potential harvest of 7,500 sockeye (2010-2011 LEKT avg. harvest); and,

**WHEREAS**, the actual LEKT 2014 sockeye harvest totaled a mere 138 fish, despite continuous open fishing from August 1 through 24, 2014. This was due to the extremely high diversion rate in which 97-99% of the sockeye travelled on the inside of Vancouver Island and through the Strait of Georgia (almost exclusively within Canadian waters), instead of the usual route through the Strait of Juan de Fuca (combination of Canadian and US waters), thereby making no fish available for commercial harvest for the U.S. fleet, tribal and non-tribal. Sockeye returning to the Fraser River in 2012 and 2013 were not in sufficient numbers to have viable commercial fisheries; and

**WHEREAS**, the LEKT's salmon fleet has been reduced to a few fishing boats over the last decade, due to fundamental changes in the world salmon market, unprecedentedly low salmon prices, and chronic low returns of salmon, due in part to the lack of appropriate and effective actions to protect natural resources and habitat conditions essential to the LEKT to maintain our culture and fishing heritage; and,

**WHEREAS**, in 2008 the U.S. Department of Commerce issued a Fisheries Economic Disaster Declaration under the authority of the Magnuson-Stevens Act and this economic fisheries disaster has effectively continued since then (no sockeye fishery in either 2009, 2012, and 2013, and essentially no access to sockeye in 2014) and is likely to persist well into the foreseeable future; and

**WHEREAS**, the U.S. Secretary of Commerce declared in 2008 that causes are likely associated with poor ocean survival, and that "loss of freshwater habitat for salmon spawning, rearing, and migration to the ocean is a chronic problem that has made salmon populations more susceptible to the periodic poor ocean conditions"; and,

**WHEREAS**, Tribal fishers and other Tribal businesses reliant upon these fish have been and will be adversely economically impacted by the fisheries closures and reduced fish availability in the Tribe's usual and accustomed fishing grounds for the foreseeable future; and,

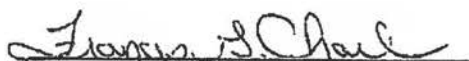
**WHEREAS**, according to the 2000 U.S. Census, LEKT tribal members living on-reservation experience a 10% unemployment rate; further, due to the high cost to gear up a fishing boat, and the minimal opportunity available to fish for salmon in the Strait of Juan de Fuca, there is minimal economic incentive to participate in tribal commercial salmon fisheries;

**THEREFORE BE IT RESOLVED THAT**, the LEKT Business Committee hereby declares that a state of economic disaster exists for Tribal fishers and Tribal Fish Businesses who were unable to catch fish during the 2012, 2013, and 2014 sockeye fisheries, and will not be able to rely upon the harvest of sockeye and other salmon species in the Strait of Juan de Fuca and San Juan Islands during the upcoming 2015 fishing season and beyond, and urges the Secretary of Commerce to declare that such an economic disaster and commercial fishery failure exists for the LEKT and its members pursuant to Section 312(a) of the Magnuson-Stevens Fishery and Conservation and Management Act; and,

**BE IT FURTHER RESOLVED THAT**, the LEKT and its staff are hereby authorized to seek and obtain on behalf of Tribal fishers and the LEKT itself any forms of disaster relief which the Secretary of Commerce may make available to the LEKT and its members (examples include zero-interest federal loans and grants, job retraining and education opportunities, financial and technical assistance to plan, develop and implement the changes needed to re-establish our economic feasibility).

#### CERTIFICATION

The foregoing resolution was presented at a regular meeting of the LEKT Business Committee at which time a quorum was present, and voted to adopt 2 FOR, 0 AGAINST and 0 ABSTENTIONS, dated this 2nd day of March, 2015.

  
Frances G. Charles  
Tribal Chairwoman

  
Council Member