



Natural Resources Department
Environmental Division
6406 Marine DR NW
Tulalip, WA 98271

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November 24, 2024

Mr. Tanner Bushnell
Toxics Cleanup Program
Washington State Department of Ecology
Northwest Regional Office

Dear Mr. Tanner:

In 1855, representatives of the several tribes that are now known as the Tulalip Tribes were among the signers of the Treaty of Point Elliot made with the United States. As part of this treaty, Tribes ceded millions of acres of their land in exchange for the tribes retaining their fishing, hunting and gathering rights within their usual and accustomed areas. The federal court decision in *United States v. Washington* – known as the Boldt decision – affirmed the tribes’ treaty right to half of the harvestable fish and shellfish in the State, and established the tribes as co-managers of Washington fisheries. In Phase II of the case it was found that, “the State must also bear the burden to demonstrate that any environmental degradation of the fish habitat proximately caused by the State’s actions (including the authorization of third parties’ activities) will not impair the tribes’ ability to satisfy their moderate living needs.”

The current preferred alternative 6 as determined from the disproportionate cost analysis conducted by the Department of Ecology does not take into account the continued impact and the impediment to restoring the Tribes’ treaty right resources at the Edmonds Marsh, specifically daylighting and rerouting of the tidal channel to the Edmonds Marsh and its tributaries, Willow and Shellabarger Creeks. Alternative 6 purposefully leaves toxic contamination in areas that preclude the ability to restore a natural tidal channel to the Edmonds Marsh, which would provide both salmon rearing habitat and access to the Marsh’s tributaries.

The Department of Ecology’s preferred alternative 6 is an instance where Washington State’s actions allow for continued degradation of fish habitat and we strongly suggest that the Department of Ecology re-evaluate its disproportionate cost analysis to take into consideration impacts to the Tribes’ treaty resources. We’d recommend selecting alternative 4 as the preferred alternative or work directly with the Tulalip Tribes to design a clean-up alternative that allows for restoration of a natural tidal channel to Edmonds Marsh.

Sincerely,

Todd Zackey
Field Studies Program Manager
Tulalip Tribes Natural and Cultural Resources Dept.

The Tulalip Tribes are federally recognized successors in the interest to the Snohomish, Snoqualmie, Skykomish, and other allied tribes and bands signatory to the Treaty of Point Elliott.