

10/8/2020

Submitted by: Gloria Uhart, Kalama, WA

SUBJECT: Deficient KMMEF EIS Environmental Assessment and Risk Analysis

NWIW's assertion that the KMMEF will not have an environmental impact on the indigenous people of Washington State is laughable. Although not a subject of review in this SSEIS, it is an open matter in the EIS and FSEIS and must be considered by Ecology in their decision. It appears only the Cowlitz tribe was included in the early discussions, but it was limited to the KMMEF facility and lateral project, not the potential impact of 185 MMTs of GHGs over 40 years to their native fisheries.

Chapter 11 of the Draft EIS addressed "Historic and Cultural Resources." The scope of the environmental impact was inconsistent with the culture and rights of the indigenous people as defined in multiple Washington treaties. On pages 17-123 and 17-124 of the FSEIS it states, "The NOI was published in the Federal Register and was mailed to approximately 300 interested parties, including federal, state and local officials; ... "potentially interested Indian tribes, ..." Based on the potential impact of the Native peoples' way of life all of the tribes in WA should have been notified, not just the two Washington confederated tribes (Chehalis and Umatilla Reservations) and the Columbia River Inter-Tribal Fish Commission listed in Chapter 18 (Distribution List) of the FSEIS. The other tribes are in Oregon (Grand Ronde, Siletz and Warm Springs.) What was the logic in notifying these Oregon interior tribe confederations at the exclusion of notifying 16 Washington coastal and Puget Sound tribes, and seven Puget Sound interior tribes who depend on salmon and steelhead as a way of life?

There are 29 federally recognized tribes throughout Washington, consisting of some 140,714 Native citizens. The livelihood for many Washington Native people rely on fishing, agriculture and timber, as is with the Yakima Nation. Sea life and salmon are especially culturally and economically important for the Coast Salish people. Their dependence on the earth's resources was unrecognized by NWIW in the FSEIS, and not even mentioned in the SSEIS. The GHGs spewed out by the KMMEF will impact nearly all tribes in Washington, but particularly the coastal, Puget Sound and Columbia River tribes due to increased ocean acidification and higher water temperatures.

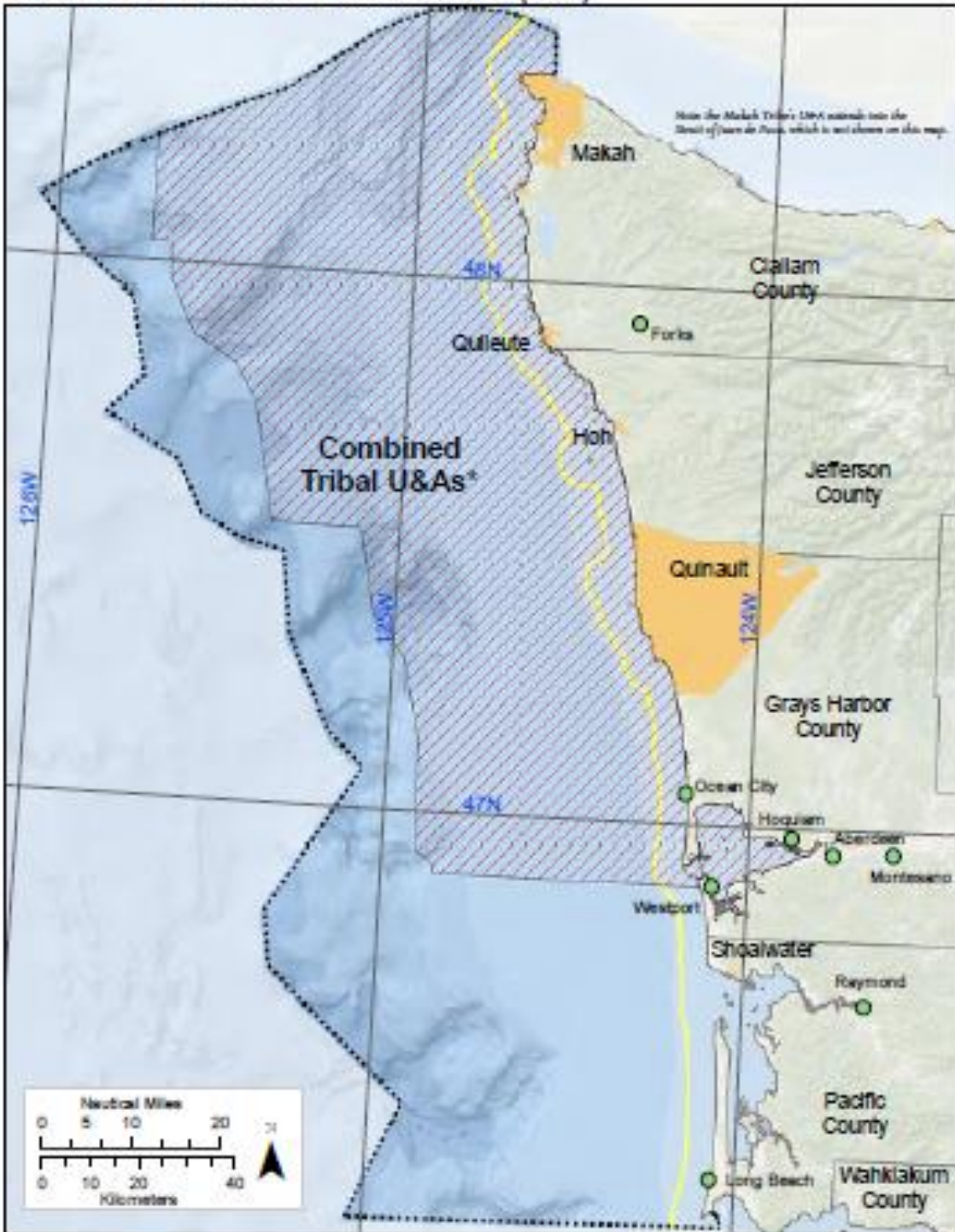
The regulatory context used in Chapter 11 of the EIS was described as "the cultural resources within the Area of Potential Effect (APE) for the proposed project, and probable impacts on such resources." The APE used was the approximate 100 acres of the KMMEF building site, Kalama Lateral Project (the proposed pipeline), and proposed electrical service improvements. The cultural resources were as identified in a cultural survey using the Washington State Department of Archaeology and Historic Preservation (DAHP) database. There were no changes to Chapter 11 in the FSEIS. This is an extremely narrow scope considering that the increased GHGs, which will exacerbate climate change, will continue to affect Washington fisheries in Native American waters.

As described in the "Marine Spatial Plan for Washington's Pacific Coast (June 2018)," "the management of the marine environment is crucial to each of the coastal tribes, as the marine environment is integral to their history, culture, identity, and future. Marine resource management as a matter of law is shared

with the State and federal government. The MSP Study Area overlaps with 3,924 square nautical miles (67%) of the combined, adjudicated tribal fishing Usual and Accustomed Areas (U&As) and can be seen in Map 2 (next page.)

“Four counties (Clallam, Jefferson, Grays Harbor, and Pacific Counties) border the Study Area, along with the reservations of five federally-recognized tribes (the Hoh, Makah, Quileute, and Shoalwater Bay Tribes, and the Quinault Indian Nation) (Map 2). At the Study Area’s southern boundary is the Mouth of the Columbia River, the largest river in the Pacific Northwest with source waters from the Rocky Mountains. At the northern boundary is the Strait of Juan de Fuca, with source waters from Puget Sound and the Strait of Georgia (Canada). Two-thirds (67%) of the MSP Study Area overlaps with the Usual and Accustomed Areas (U&As) of one of the coastal treaty tribes – the combined area for adjudicated tribal fishing U&As is approximately 3924 nautical miles of the Study Area. The Makah U&A extends into the Strait of Juan de Fuca, which is not displayed on this map.)

Map 2: Cities, Coastal Tribal Reservations, and Combined Tribal Usual and Accustomed Areas (U&As)



- Washington Coastal Tribal Reservations (DNR)
 - Incorporated City (WSDOT)
 - County Boundary (DNR)
 - Latitude and Longitude (ESRI)
 - Washington MSP Study Area (State Ocean Caucus)
 - WA State Boundary (NOAA)
 - Combined Tribal U&As (NOAA Fisheries)
- * This represents the combined U&A footprints, within the MSP Study Area only, for the Quileute, Quinault, and Makah tribes. Each tribe's U&A varies within this area.

Map coordinate system: North American Datum of 1983 (NAD83), Washington South State Plane Coordinate System, meters. Not to be used for legal purposes.

Four of the five tribes adjacent to the MSP Study area signed treaties and include the Hoh, Makah, and Quileute Tribes, and the Quinault Indian Nation (referred to collectively as the coastal treaty tribes). The treaties with the Makah Tribe and Hoh Tribe, Quileute Tribe, and the Quinault Indian Nation govern the relationships between the federal government and the coastal treaty tribes. “Through signing those treaties, the treaty tribes agreed to allow the peaceful settlement of much of western Washington and ceded land to do so, in exchange for, among other things, their reserved right to harvest fish, shellfish, wildlife, and plants, and exercise other cultural practices both on and off-reservation. The treaties reserved the right to fish in “usual and accustomed grounds and stations” beyond a tribe’s reservation boundaries. Other tribes were recognized by the federal government through federal processes and maintain tribal reservations, but do not have treaties with the United States.

U.S. District Court and Supreme Court decisions (1974, 1979 and 1994), upheld the tribes’ treaty fishing rights, affirming the tribal right to harvest up to 50% of all fish, including naturally occurring shellfish and salmon within their respective U&As. The KMMEF, indirectly through its unmitigated GHG emissions and projected effects of climate change, will deny the tribes of Washington their fundamental treaty rights.

Furthermore, the In January 2017, the Makah Tribal Council approved the Makah Ocean Policy. The purpose of this Policy is to “protect and exercise the treaty-reserved rights and culture” of the Makah Tribe that are inextricably tied to the health of the ocean. The Policy acknowledges that in order for the Makah Tribe to preserve its treaty rights, “it is critical for the Tribe to be informed of, and actively involved in, decisions on actions that may affect the Tribe’s use of treaty resources or the health of the ecosystems upon which these resources depend (emphasis added.)” The Makah Ocean Policy contains consultation procedures that establish the requirements for when consultation is needed, including when it should begin, as well as pre-notification requirements, points of contact at the Tribe, and what is required of state and federal permitting agencies to initiate formal closure of consultation. (To obtain a copy of the Makah Ocean Policy, please contact the Makah Tribe, Rosina DePoe, Chief of Staff for tribal council).

In my quest for bringing facts to the table, facts that NWIW would prefer to obscure behind a curtain of deception, I read nearly 50 scholarly peer-reviewed research papers on the aquatic biodiversity of our oceans and the Pacific Northwest, and the effects of climate change on our fisheries. Ocean acidification and increasing temperatures are affecting the survivability of shellfish, salmon and steelhead in the Pacific Northwest. This includes the Pacific Ocean all the way to the coast of Alaska and the Bering Sea where salmon spend a good part of their time in the ocean. Our fisheries are not the only ones in decline. The 2020 salmon returns in Alaska so poor that many Alaskan communities are claiming fishery economic disasters and requesting government assistance. As of 8/12/20 all sockeye, chinook, pink and chum salmon fisheries are below projections, with some areas completing closed to commercial fishing. Bristol Bay appears to be the only area with good returns.

I reviewed the 2019 and 2020 Washington Coho Forecast Summary published by the Dept. of Fish and Wildlife. The forecasted and actual returns for hatchery and natural Coho salmon went from 2,013,316 in 2019 to 987,494 in 2020 (forecasted), less than half. Runs will likely be just above 50% of the 10-year average. Every production unit is forecasting significantly fewer natural fish. Although this is a

snapshot, and only represents one of the 19 species, the running 10, 20 and 30 year averages indicate nearly all species of salmon and steelhead are in decline. Many species will be on the edge of extinction by 2050 as a result of climate change, and here we are still considering the approval of a shoreline permit that will clear the way for a foreign-owned and operated GHG-emitting methanol plant to be built in our community at the expense of our economy and Native Americans. I'm in shock. What are we thinking? Ecology must deny the KMMEF shoreline permit.

Mark Uhart
LTC. USA Ret.
Kalama, WA