

## **Appendix B: Summaries of Usual and Accustomed Areas prepared by the Washington Attorney General's Office**

### **Important information about the tables included in this appendix:**

In an effort to identify the adjudicated U&As associated with Western Washington tribes, the Attorney General's Office reviewed Judge Boldt's original U&A determinations (384 F. Supp. 312 (W.D. Wash. 1974)), a 1977 geographic depiction of the U&As prepared by the Bureau of Indian Affairs, the subsequent court decisions that modified or clarified Judge Boldt's original order, and some previous work completed by division attorneys and law clerks for the Washington State Ferry system. We also consulted with the Attorney General Office's U&A expert. From those sources, we compiled the table included as Attachment 1. The table lists Western Washington tribes (and Yakama Nation, which has Western Washington U&As) and the adjudicated off-reservation treaty fishing rights of each tribe. Attachment 2 sets forth, for each tribe, excerpts from various court orders that pertain to the tribes' U&As and support the summary in Attachment 1.

Of course, there are a couple of important limitations to the information in the table. First, while the need for some practical tools to focus project discussions with affected tribes is perfectly understandable, it is important to recall Judge Boldt's finding that "[a]lthough there are extensive records and oral history from which many specific fishing locations can be pinpointed, *it would be impossible to compile a complete inventory* of all tribes' usual and accustomed grounds and stations." 384 F. Supp. at 353. Similarly while, "every fishing location where members of a tribe customarily fished from time to time" is a usual and accustomed ground or station, 384 F. Supp. at 353, "little documentation of Indian fishing locations in an around 1855 exists today." 459 F. Supp. at 1059

Second, the federal district court has retained jurisdiction in the U.S. v. Washington case and treaty tribes have the right to ask the court to determine the location of any U&As that were not specifically determined in the original judgment. Additionally, some signatory tribes have merged into other groups and there has been litigation to determine whether the claimant group can assert rights reserved to the original signatory group. See *United States v. Suquamish Indian Tribe*, 901 F.2<sup>nd</sup> 772 (9<sup>th</sup> Cir. 1990). The existence of such claims and the related ongoing litigation makes the determination of adjudicated U&As a dynamic process. In various decisions published during the years since Judge Boldt's original decision, some tribes have failed in their efforts to achieve judicial recognition of claimed U&As. Others have had their claims formally recognized. Litigation that may add or remove tribal treaty fishing rights or require a tribe to share a U&A with another tribe continues today. For example, the Samish Tribe has ongoing litigation in the federal district court.

In sum, the table in Attachment 1 represents our current understanding of the U&As that have been adjudicated to date. A tribe may have a legitimate off-reservation U&A claim that, for various reasons, has not been formally adjudicated.

Attachment 1

**Summary of Adjudicated Off-Reservation Tribal Usual and Accustomed Fishing Areas  
for Western Washington Tribes  
as of  
August 24, 2007**

Tribe	Usual and Accustomed Fishing Places
Chehalis	None
Chinook	None
Cowlitz	None
Duwamish	None •Modern day Duwamish do not hold fishing rights reserved to the Duwamish Tribe that signed the treaty
Hoh	<ul style="list-style-type: none"> <li>•Hoh River system (mouth to uppermost reaches &amp; tributaries)</li> <li>•Quillayute River system &amp; tributaries</li> <li>•Dickey River system</li> <li>•Bogachiel River system</li> <li>•Calawah River system</li> <li>•Soleduck River system</li> <li>•Queets River system</li> <li>•Quinault River system</li> <li>•Lake Dickey</li> <li>•Pleasant Lake</li> </ul>

	<ul style="list-style-type: none"> <li>•Lake Ozette</li> <li>•Adjacent tidewaters and saltwater areas.</li> </ul>
<p>Jamestown S'Klallam</p>	<ul style="list-style-type: none"> <li>•Strait of Juan de Fuca waters</li> <li>•All streams draining into Strait of Juan de Fuca from Hoko River east to the mouth of Hood Canal</li> <li>•Waters of San Juan Islands archipelago</li> <li>•Waters off the west coast of Whidbey Island</li> <li>•Hood Canal, Klallam fishing south of Ayock Point by invitation only from the Skokomish Tribe</li> <li>•All streams draining into Hood Canal except the Skokomish River &amp; its tributaries and the Sekiu River by regulation of the Makah Tribe</li> </ul>
<p>Lower Elwha</p>	<ul style="list-style-type: none"> <li>•Strait of Juan de Fuca waters</li> <li>•All streams draining into Strait of Juan de Fuca from Hoko River east to the mouth of Hood Canal</li> <li>•Waters of San Juan Islands archipelago</li> <li>•Waters off the west coast of Whidbey Island</li> <li>•Hood Canal, Klallam fishing south of Ayock Point by invitation only from the Skokomish Tribe</li> <li>•All streams draining into Hood Canal except the Skokomish River &amp; its tributaries and the Sekiu River by regulation of the Makah Tribe</li> </ul>
<p>Lummi</p>	<ul style="list-style-type: none"> <li>•Marine areas of Northern Puget Sound from the Fraser River south to Edmonds</li> <li>•Bellingham Bay</li> <li>•River drainage systems, especially Nooksack, emptying into the bays from Boundary Bay south to Fidalgo Bay</li> <li>•Admiralty Inlet</li> <li>•No U&amp;As in mouth of Hood Canal of Strait of Juan de Fuca</li> </ul>
<p>Makah</p>	<ul style="list-style-type: none"> <li>•Marine waters of Strait of Juan de Fuca east to Port Crescent</li> <li>•Rivers/streams along Strait of Juan de Fuca from the Hoko River east to the Lyre River,</li> </ul>

	<p>including the Pysht River &amp; Twin River</p> <ul style="list-style-type: none"> <li>•Pacific Ocean waters</li> </ul>
<p>Muckleshoot</p>	<ul style="list-style-type: none"> <li>•Upper Puyallup River &amp; tributaries</li> <li>•Carbon River &amp; tributaries</li> <li>•Stuck River &amp; tributaries</li> <li>•White River &amp; tributaries</li> <li>•Green River &amp; tributaries</li> <li>•Cedar River &amp; tributaries</li> <li>•Black River &amp; tributaries</li> <li>•Soos Creek</li> <li>•Burns Creek</li> <li>•Newaukum Creek</li> <li>•Lake Washington</li> <li>•Elliott Bay</li> </ul>
<p>Nisqually</p>	<ul style="list-style-type: none"> <li>•Saltwaters areas of the mouth of the Nisqually River and surrounding bay</li> <li>•Nisqually River &amp; tributaries</li> <li>•McAllister (a/k/a Medicine or Shenahnam) Creek</li> <li>•Sequalticu Creek</li> <li>•Chambers Creek</li> <li>•Lakes between Steilacoom and McAllister Creeks</li> <li>•All saltwater areas of southern Puget Sound from the northernmost tip of the area generally known as Henderson Bay south to the Nisqually River bay area to a line drawn from Johnson Point to Devils Head; from a line drawn east from Point Fosdick on Kitsap Peninsula to Day's Island south to the Nisqually River bay area (to a line drawn from Johnson Point to Devils Head); and all waters between Henderson Bay and the Narrows (to a line drawn from Point Fosdick to Day's Island) including Carr Inlet and Hale Passage; as well as the freshwater rivers and streams which drain into that area</li> </ul>
<p>Nooksack</p>	<ul style="list-style-type: none"> <li>•Nooksack River &amp; tributaries</li> <li>•Bellingham Bay</li> </ul>

	<ul style="list-style-type: none"> <li>•Chuckanut Bay</li> <li>•Birch Bay</li> <li>•Semiahmoo Bay</li> <li>•Semiahmoo Spit and surrounding marine waters</li> </ul>
<p>Port Gamble S'Klallam</p>	<ul style="list-style-type: none"> <li>•Waters of the Strait of Juan de Fuca</li> <li>•All streams draining into the Strait of Juan de Fuca from the Hoko River east to the mouth of Hood Canal</li> <li>•Waters of the San Juan Islands archipelago</li> <li>•Waters off the west coast of Whidbey Island</li> <li>•Hood Canal, Klallam fishing south of Ayock Point by invitation only from the Skokomish Tribe</li> <li>• All streams draining into Hood Canal except the Skokomish River &amp; its tributaries and the Sekiu River by regulation of the Makah Tribe</li> </ul>
<p>Puyallup</p>	<ul style="list-style-type: none"> <li>•Salt waters north and west of a line drawn from Mahnckes Point on the Kitsap peninsula to the westernmost point of McNeil Island bordering on Pitt Passage, then extending from Hyde Point on McNeil Island to Gibson Point on Fox Island and then extending from Fox Point on Fox Island to Point Fosdick on the Kitsap peninsula, generally known as the Carr Inlet/Henderson Bay/Hale Passage area, as well as the freshwater rivers and streams which drain into that area</li> <li>•Those salt waters north and east of a line drawn from Hyde Point on McNeil Island to Gordon Point on the mainland and south of those marine areas generally known as the Narrows area</li> <li>•Puyallup River and tributary rivers and creeks</li> <li>•Smaller creeks adjacent to but not tributaries of the Puyallup River</li> </ul>
<p>Quileute</p>	<ul style="list-style-type: none"> <li>•Hoh River from mouth to uppermost reaches and tributary creeks</li> <li>•Quileute River and its tributaries</li> <li>•Dickey River</li> <li>•Soleduck River</li> <li>•Bogachiel River</li> <li>•Calaway River</li> <li>•Lake Dickey</li> <li>•Pleasant Lake</li> </ul>

	<ul style="list-style-type: none"> <li>•Lake Ozette</li> <li>•Adjacent tidewaters and saltwater</li> </ul>
Quinault	<ul style="list-style-type: none"> <li>•Clearwater River</li> <li>•Queets River</li> <li>•Salmon River</li> <li>•Quinault (including Lake Quinault and Upper Quinault)</li> <li>•Raft River tributaries</li> <li>•Moclips River</li> <li>•Copalis River</li> <li>•Joe Creek</li> <li>•Adjacent ocean fisheries</li> </ul> <p>Shared U&amp;As – Grays Harbor and streams emptying into Grays Harbor</p>
Samish	<p>U&amp;As being determined in ongoing litigation</p>
Sauk-Suiattle	<ul style="list-style-type: none"> <li>•Sauk River and Bedal Creek (tributary)</li> <li>•Cascade River</li> <li>•Suiattle River and tributaries <ul style="list-style-type: none"> <li>•Big Creek</li> <li>•Tenas Creek</li> <li>•Buck Creek</li> <li>•Lime Creek</li> <li>•Sulphur Creek</li> <li>•Downey Creek</li> <li>•Straight Creek</li> <li>•Milk Creek</li> </ul> </li> </ul>
Shoalwater Bay	None
Skokomish	<ul style="list-style-type: none"> <li>•All waterways draining into Hood Canal</li> <li>•Hood Canal</li> </ul>



Snohomish	None
Snoqualmie	None
Snoqualmoo	None
Squaxin	<ul style="list-style-type: none"> <li>•Shallow bays, estuaries, inlets and open waters of Southern Puget Sound</li> <li>•Freshwater streams and creeks draining into those waters</li> <li>•Saltwater north and west of line drawn from Mahnckes Point (Kitsap Peninsula) to the westernmost point of McNeil Island bordering Pitt Passage then extending from Hyde Point on McNeil Island to Gibson Point on Fox Island and then extending from Fox Point on Fox Island to Point Fosdick on the Kitsap peninsula, generally known as the Carr Inlet/Henderson Bay/Hale</li> </ul>
Steilacoom	None
Stillaguamish	<ul style="list-style-type: none"> <li>•Area embracing the Stillaguamish River and north and south forks</li> </ul>
Suquamish	<ul style="list-style-type: none"> <li>•Marine waters of Puget Sound from the northern tip of Vashon Island to the Fraser River including Haro and Rosario Straits</li> <li>•Streams draining into the west side of this portion of Puget Sound and also Hood Canal</li> <li>•No U&amp;A on east side of Puget Sound</li> </ul>
Swinomish	<ul style="list-style-type: none"> <li>•Skagit River and tributaries</li> <li>•Samish River and tributaries</li> <li>•Marine areas of northern Puget Sound from the Fraser River south to and including Whidbey, Camano, Fidalgo, Guemes, Samish, Cypress and the San Juan Islands</li> <li>•Bellingham Bay</li> <li>•Hale Passage adjacent to Lummi Island</li> <li>•No U&amp;A in Salmon catch Management Area 10</li> </ul>
Tulalip	<ul style="list-style-type: none"> <li>•Admiralty Inlet, including its Whidbey Island bays</li> <li>•Saratoga Passage</li> <li>•Penn Cove</li> </ul>

	<ul style="list-style-type: none"> <li>•Holmes Harbor</li> <li>•Possession Sound and Puget Sound south of Whidbey Island to the present West Point Lighthouse, including Tulalip Bay and Port Gardner</li> <li>•Stu-bus and Ile'i-s-tu-bus</li> <li>•Port Susan inlet except close to the mouths of the Stillaguamish River</li> <li>•Waters off the west coast of the Whidbey Island including those northerly and westerly from the West Beach shoreline from Deception Pass to Pt. Partridge</li> <li>•Point Roberts, Birch Bay and adjacent waters now designated WDF Area 7A</li> <li>•The waters of the San Juan Archipelago, Haro Strait and Rosario Strait and the portion of the Strait of Juan de Fuca northeasterly of a line drawn from Trial Island (in Canada) to Protection Island</li> <li>•The waters of WDF Area 10</li> <li>•Snohomish-Snoqualmie-Skykomish River drainage area including its freshwater lakes</li> <li>•Stillaguamish River (only with the permission and at the invitation of the Stillaguamish Tribe)</li> </ul> <p><u>Note: see detailed information in Attachment 2 for areas excluded.</u></p>
Upper Skagit	<ul style="list-style-type: none"> <li>•Numerous areas along the Skagit River extending from about Mt. Vernon upstream to Gorge Dam</li> <li>•Saratoga Passage on the east coast of Whidbey Island from Sneatlum Point in the vicinity of Penn Cove and Herrington's Lagoon to Holmes Harbor and on Camano Island from Utsaladdy to the vicinity of Camano Island State Park and Elger Bay.</li> <li>•Deception Pass</li> <li>•Similk Bay and southward to and including Penn Cove and Utsaladdy</li> <li>•Vicinity of Bayview on Padilla Bay to the vicinity of Blanchard on Samih Bay up to and including Chuckanut Bay</li> </ul>
Yakima	<ul style="list-style-type: none"> <li>•Snoqualmie River &amp; tributaries</li> <li>•Snohomish River &amp; tributaries</li> <li>•Green River &amp; tributaries</li> <li>•Puyallup River &amp; tributaries</li> <li>•Nisqually River &amp; tributaries</li> <li>•Stuck River &amp; tributaries</li> </ul>

- Duwamish River & tributaries
- White River & tributaries
- Carbon River & tributaries
- Black Rivers & tributaries
- No saltwater U&As

Attachment 2

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Chehalis	<b>Findings from original <u>Boldt</u> decision:</b>  None.	
	<b>Subsequent published decisions:</b>	<i>Confederated Tribes of Chehalis Indian Reservation v. State of Washington, 97 F.3d 334 (1996)</i>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U.S. & A. Description or Holding	Cite
Chinook	Findings from original <b>U.S.</b> decision:  None.	
	Subsequent published decisions:  None.	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Cowlitz	<b>Findings from original <u>Boldt</u> decision:</b> None.	
	<b>Subsequent published decisions:</b> None.	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Duwamish	<b>Findings from original Boldt decision:</b>  None.	
	<b>Subsequent published decisions:</b>	<i>United States v. State of Washington</i> , 641 F.2d 1368 (9 <sup>th</sup> Cir. 1981), cert. denied, 454 U.S. 1143 (1982)



Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<b>Hoh</b>	<b>Findings from original <u>Boldt</u> decision:</b>	
	In treaty times the <u>usual and accustomed</u> fishing places of the Quileute and Hoh Indians included the entire Hoh river system and the Quillayute, Dickey, Bogachiel, Calawah, Soleduck, Queets and Quinault river systems.	<i>U.S. v. State</i> , 384 F.Supp. 312, <b>359</b> (W.D.Wash. 1974) <b>FOF 39</b>
	Before, during and after treaty times, the <u>usual and accustomed</u> fishing places of the Quileute and Hoh Indians included the Hoh River from the mouth to its uppermost reaches, its tributary creeks, the Quileute River and its tributary creeks, Dickey River, Soleduck River, Bogachiel River, Calawah River, Lake Dickey, Pleasant Lake, Lake Ozette, and the adjacent tidewater and saltwater areas.	<i>U.S. v. State</i> , 384 F.Supp. 312, <b>372</b> (W.D.Wash. 1974) <b>FOF 108</b>
	<b>Subsequent published decisions:</b>	
	None.	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Jamestown S'Klallam	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>Its <u>usual and accustomed</u> fishing places (shown on Appendix A attached hereto) include the waters of the Strait of Juan de Fuca, all the streams draining into the Strait from the Hoko River east to the mouth of Hood Canal, the waters of the San Juan Islands archipelago, the waters off the west coast of Whidbey Island, the waters of Hood Canal, and all streams draining into Hood Canal except the Skokomish River and its tributaries. In addition, the Jamestown Klallam Tribe has usual and accustomed fishing rights on the Sekiu River, but the fishing on this river shall be subject to the control and regulation of the Makah Indian Tribe.</p>	<p><i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1486</b> (W.D.Wash. 1985), <i>aff'd</i> 642 F.2d 1141 (9<sup>th</sup> Cir. 1981)</p> <p>Details of Hood Canal Agreement are at <i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1468-70</b> (W.D.Wash.1985)</p>
	<p>Upon a full and careful examination and consideration of the briefs, exhibits and transcripts of the testimony taken on July 30 and August 6, 1975, the court concludes: (1) that the Makah Tribe and the Lower Elwha Band should exercise a joint fishery, wherein neither tribe shall exercise control or regulation over the other, on the Hoko River but that Makah fishing on rivers or streams east of the Hoko to Port Crescent shall be subject to the control and regulation, as defined above, by the Lower Elwha Band of the Clallam Indian Tribe; (2) the Lower Elwha fishing on the Sekiu River shall be subject to the control and regulation by the Makah Indian Tribe; (3) a joint fishery as defined above shall exist with respect to Makah and Lower Elwha fishing in the marine waters of the Strait of Juan de Fuca.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1067</b> (W.D. Wash. 1975)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Lower Elwha	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>The <u>usual and accustomed fishing places of the Lower Elwha Tribe</u> include all of the streams draining into the Strait of Juan de Fuca from the Hoko River east to the mouth of Hood Canal and the waters of the Strait of Juan de Fuca.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1049</b> (W.D. Wash. 1975)</p>
	<p>The common fishing areas of the Makah Tribe and the Lower Elwha Band are as follows:  The marine waters of the Strait of Juan de Fuca east to Port Crescent (near Port Angeles) and the rivers and streams along the Strait of Juan de Fuca from the Hoko River east to the Lyre River, including the Pysht River and Twin River.  There is no dispute with respect to Makah and Lower Elwha fishing in common marine areas. The dispute concerns which of the tribes has fishing rights on the common rivers (Hoko, Pysht, Twin and Lyre) which are primary to the rights of the other tribe, to the extent that one tribe may control or preclude fishing by the other on those rivers.</p> <p>Upon a full and careful examination and consideration of the briefs, exhibits and transcripts of the testimony taken on July 30 and August 6, 1975, the court concludes: (1) that the Makah Tribe and the Lower Elwha Band should exercise a joint fishery, wherein neither tribe shall exercise control or regulation over the other, on the Hoko River but that Makah fishing on rivers or streams east of the Hoko to Port Crescent shall be subject to the control and regulation, as defined above, by the Lower Elwha Band of the Clallam Indian Tribe; (2) the Lower Elwha fishing on the Sekiu River shall be subject</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1067</b> (W.D. Wash. 1975)</p>

	<p>to the control and regulation by the Makah Indian Tribe; (3) a joint fishery as defined above shall exist with respect to Makah and Lower Elwha fishing in the marine waters of the Strait of Juan de Fuca.</p>	
	<p>The Lower Elwha Band also claims additional marine and river areas as usual and accustomed fishing places but the court declines to rule or consider such claims at this time.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1067</b> (W.D. Wash. 1975)</p>
	<p>The usual and accustomed fishing grounds of the Lower Elwha Band of Klallam Indians include, in addition to those determined in the Order of April 18, 1975, <u>459 F.Supp. at 1049</u>, and the Order of March 10, 1976, <u>459 F.Supp. at 1066</u>, the waters of the San Juan Islands archipelago, the waters off the west coast of Whidbey Island, Hood Canal and all streams draining into Hood Canal except the Skokomish River and all of its tributaries.</p>	<p><i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1443</b> (W.D.Wash. 1985), <i>aff'd</i> 642 F.2d 1141 (9<sup>th</sup> Cir. 1981)</p> <p>Details of Hood Canal Agreement are at <i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1468-70</b> (W.D.Wash.1985)</p>
	<p>We conclude that the Lower Elwha Tribe is entitled to exercise the primary Indian fishing right on the disputed rivers east of the Hoko and that Makah fishing in that area is subject to Elwha permission. The Hoko River remains a joint fishery. These are the "right(s) of taking fish" that were secured by the treaties, and these are the rights enforceable today.</p>	<p><i>U.S. v. Lower Elwha Tribe</i>, 642 F.2d 1141, <b>1144</b> (9<sup>th</sup> Cir. 1981)</p>

## Usual and Accustomed Tribal Fishing Grounds

Tribe	U & A	Cite
Lummi	<p><b>Findings from original Boldt decision:</b></p> <p>The Lummi had reef net sites on Orcas Island, San Juan Island, Lummi Island and Fidalgo Island, and near Point Roberts and Sandy Point.</p> <p>In addition to the reef net locations listed above, the usual and accustomed fishing places of the Lummi Indians at treaty times included the marine areas of Northern Puget Sound from the Fraser River south to the present environs of Seattle, and particularly Bellingham Bay. Freshwater fisheries included the river drainage systems, especially the Nooksack, emptying into the bays from Boundary Bay south to Fidalgo Bay.</p> <p><b>Subsequent published decisions:</b></p> <p>We are persuaded that Judge Boldt did not intend for either the Strait of Juan de Fuca or the mouth of the Hood Canal to be included within the Lummi's usual and accustomed grounds and stations. Based on the geography of the area, however, we conclude that Judge Boldt did intend to include [within Lummi usual and accustomed grounds and stations] Admiralty Inlet. We affirm Judge Rothstein's order of dismissal in part, and reverse it in part.</p> <p>We conclude, however, that because the Lummi were fishing from the northern part of Puget Sound south "to" the environs of Seattle, the fishing grounds must end where those environs begin.</p> <p>... the environs of Seattle extended approximately to Edmonds.</p> <p><i>Muckleshoot v. Lummi</i>, 141 F.3d 1355 (9<sup>th</sup> Cir. 1998).</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 360 (W.D.Wash. 1974)</p> <p><b>FOF 45</b></p> <p><i>U.S. v. State</i>, 384 F.Supp. 312, 360 (W.D.Wash. 1974)</p> <p><b>FOF 46</b></p> <p><i>U.S. v. Lummi Indian Tribe</i>, 235 F.3d 443, 453 (2000).</p> <p><i>Muckleshoot Indian Tribe v. Lummi Indian Nation</i>, 234 F.3d 1099, 1100 (2000)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<b>Makah</b>	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>The Makah's <u>usual and accustomed</u> fishing places prior to treaty time included the waters of the Strait of Juan de Fuca to Port Crescent (near Port Angeles) extending out into the ocean to an area known as Swiftsure and then south along the Pacific Coast to an area intermediate to Ozette Village and the Quileute Reservation, as well as the rivers along the Strait of Juan de Fuca and down the Pacific shore starting at the Elwah River and including the Lyre River, Twin River, Pysht River, Hoko River, Sekiu River, Sooes River, Waatch River, Big River, and Ozette River and Lake Ozette.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, <b>364</b> (W.D.Wash. 1974)</p> <p><b>FOF 65</b></p>
	<p><b>Subsequent published decisions:</b></p> <p>On the basis of all evidence submitted and reasonable inferences drawn therefrom, the Court finds that at the time of the treaty of Neah Bay, 12 Stat. 939, the Makah Tribe's <u>usual and accustomed</u> offshore fishing grounds included, in addition to those areas previously determined by this Court: Waters of the Pacific Ocean west of the coasts of Vancouver Island and what is now the State of Washington bounded on the west by longitude 125° 44 W. and on the south by a line drawn westerly from the Norwegian Memorial along latitude 48° 2 15 " N, including but not limited to the waters of 40 Mile Bank, Swiftsure Sound, and the waters above Juan de Fuca Canyon, to the extent that such waters are included in the area described.</p>	<p><i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1467</b> (W.D.Wash.1985)</p> <p><b>FOF 346</b></p>
	<p>The common fishing areas of the Makah Tribe and the Lower Elwha Band are as follows: The marine waters of the Strait of Juan de Fuca east to Port Crescent (near Port Angeles) and the rivers and streams along the Strait of Juan de Fuca from the Hoko River east to the Lyre River, including the Pysht River and Twin River.</p>	<p><i>United States v. Washington</i>, 459 F.Supp. 1020, <b>1067</b> (W.D. Wash. 1975)</p>

	<p>There is no dispute with respect to Makah and Lower Elwha fishing in common marine areas. The dispute concerns which of the tribes has fishing rights on the common rivers (Hoko, Pysht, Twin and Lyre) which are primary to the rights of the other tribe, to the extent that one tribe may control or preclude fishing by the other on those rivers.</p> <p>Upon a full and careful examination and consideration of the briefs, exhibits and transcripts of the testimony taken on July 30 and August 6, 1975, the court concludes: (1) that the Makah Tribe and the Lower Elwha Band should exercise a joint fishery, wherein neither tribe shall exercise control or regulation over the other, on the Hoko River but that Makah fishing on rivers or streams east of the Hoko to Port Crescent shall be subject to the control and regulation, as defined above, by the Lower Elwha Band of the Clallam Indian Tribe; (2) the Lower Elwha fishing on the Sekiu River shall be subject to the control and regulation by the Makah Indian Tribe; (3) a joint fishery as defined above shall exist with respect to Makah and Lower Elwha fishing in the marine waters of the Strait of Juan de Fuca.</p>	
	<p>We conclude that the Lower Elwha Tribe is entitled to exercise the primary Indian fishing right on the disputed rivers east of the Hoko and that Makah fishing in that area is subject to Elwha permission. The Hoko River remains a joint fishery. These are the "right(s) of taking fish" that were secured by the treaties, and these are the rights enforceable today.</p>	<p><i>U.S. v. State</i>, 642 F.2d 1141, <b>1144</b> (9<sup>th</sup> Cir. 1981)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Muckleshoot	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>Prior to and during treaty times, the Indian ancestors of the present day <u>Muckleshoot Indians</u> had usual and accustomed fishing places primarily at locations on the upper Puyallup, the Carbon, Stuck, White, Green, Cedar and Black Rivers, the tributaries to these rivers (including Soos Creek, Burns Creek and Newaukum Creek) and Lake Washington, and secondarily in the saltwater of Puget Sound.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 367 (W.D.Wash. 1974)</p>
	<p><b>Subsequent published decisions:</b></p> <p>In proceedings adjudicating treaty-reserved fishing rights in Washington State, the Puyallup, Suquamish, and Swinomish Indian Tribes sought determination regarding extent of Muckleshoot Indian Tribe's saltwater usual and accustomed fishing area. The United States District Court for the Western District of Washington, <u>Barbara Jacobs Rothstein, J.</u>, entered summary judgment in favor of Puyallup, Suquamish, and Swinomish Tribes. Muckleshoot Tribe appealed.</p> <p>Because we agree with the district court that the Muckleshoot's saltwater usual and accustomed fishing area, as found by Judge Boldt, was limited to Elliott Bay, we affirm the grant of summary judgment . . .</p>	<p><i>U.S. v. Muckleshoot Indian Tribe</i>, 235 F.3d 429 (9<sup>th</sup> Cir. 2000)</p> <p><i>U.S. v. Muckleshoot Indian Tribe</i>, 235 F.3d 429, 431 (9<sup>th</sup> Cir. 2000)</p>



Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Nisqually	<p><b>Findings from original Boldt decision:</b></p> <p>The usual and accustomed fishing places of the Nisqually Indians included at least the saltwater areas at the mouth of the Nisqually River and the surrounding bay, and the freshwater courses of the Nisqually River and its tributaries, McAllister (Medicine or Shenahnam) Creek, Sequeliticu Creek, Chambers Creek and the lakes between Steilacoom and McAllister Creeks. The saltwater fisheries were shared with other Indians.</p> <p><b>Subsequent published decisions:</b></p> <p>At the time of the Treaty of Medicine Creek, 10 Stat. 1132, the Nisqually Indian Tribe and its members regularly fished in the following described areas: All saltwater areas of southern Puget Sound from the northernmost tip of the area generally known as Henderson Bay south to the Nisqually River bay area to a line drawn from Johnson Point to Devils Head; from a line drawn east from Point Fosdick on Kitsap Peninsula to Day's Island south to the Nisqually River bay area (to a line drawn from Johnson Point to Devils Head); and all waters between Henderson Bay and the Narrows (to a line drawn from Point Fosdick to Day's Island) including Carr Inlet and Hale Passage; as well as the freshwater rivers and streams which drain into that area.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 369 (W.D.Wash. 1974)</p>
		<p><i>U.S. v. State</i>, 626 F.Supp. 1405, 1441 (W.D.Wash.1985)</p> <p><b>FOF 335</b></p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<b>Nooksack</b>	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p> <p><b>Subsequent published decisions:</b></p> <p>The usual and accustomed fishing places of the Nooksack Tribe include the Nooksack River and its tributaries, Bellingham Bay, Chuckanut Bay, Birch Bay, Semiahmoo Bay and Semiahmoo Spit and surrounding marine waters.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1048-49</b> (W.D.Wash.1978)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Port Gamble S'Klallam	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>The usual and accustomed fishing grounds of the Port Gamble Band of Klallam Indians include the waters of the Strait of Juan de Fuca, and all the streams draining into the Strait from the Hoko River east to the mouth of Hood Canal. In addition, the Port Gamble Klallam Band has usual and accustomed fishing rights on the Sekiu River, but the fishing on this river shall be subject to the control and regulation of the Makah Indian Tribe. Furthermore, the usual and accustomed fishing grounds of the Port Gamble Klallam Band include the waters of the San Juan Islands archipelago and the waters off the west coast of Whidbey Island. The usual and accustomed fishing grounds of the Port Gamble Klallam Band also include Hood Canal and all streams draining into Hood Canal except the Skokomish River and all of its tributaries. The usual and accustomed fishing area of the Port Gamble Klallam Band is presented graphically in the map attached as Appendix A.</p>	<p><i>U.S. v. State</i>, 626 F.Supp.1405, <b>1442-43</b> (W.D.Wash.1985), <i>aff'd</i> 642 F.2d 1141 (9<sup>th</sup> Cir. 1981)</p> <p>Details of Hood Canal Agreement are at <i>U.S. v. State</i>, 626 F.Supp. 1405, <b>1468-70</b> (W.D.Wash.1985)</p>
	<p>Upon a full and careful examination and consideration of the briefs, exhibits and transcripts of the testimony taken on July 30 and August 6, 1975, the court concludes: (1) that the Makah Tribe and the Lower Elwha Band should exercise a joint fishery, wherein neither tribe shall exercise control or regulation over the other, on the Hoko River but that Makah fishing on rivers or streams east of the Hoko to Port Crescent shall be subject to the control and regulation, as defined above, by the Lower Elwha Band of the Clallam Indian Tribe; (2) the Lower Elwha fishing on the Sekiu River shall be subject to the control and regulation by the Makah Indian Tribe; (3) a joint fishery as defined above shall exist with respect to Makah and Lower Elwha fishing in the marine waters of the Strait of Juan de Fuca.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, <b>1067</b> (W.D. Wash. 1975)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Puyallup	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>The usual and accustomed fishing places of the Puyallup Indians included the marine areas around Vashon Island and adjacent portions of Puget Sound, Commencement Bay, the Puyallup River and the tributary rivers and creeks. In addition, smaller creeks adjacent to but not tributaries of the Puyallup River were used.</p> <p><b>Subsequent published decisions:</b></p> <p>At the time of the Treaty of Medicine Creek, 10 Stat. 1132, the Puyallup Indian Tribe and its members regularly fished in the following described areas:</p> <ol style="list-style-type: none"> <li>1. Those salt waters north and west of a line drawn from Mahonckes Point on the Kitsap peninsula to the westernmost point of McNeil Island bordering on Pitt Passage, then extending from Hyde Point on McNeil Island to Gibson Point on Fox Island and then extending from Fox Point on Fox Island to Point Fosdick on the Kitsap peninsula, generally known as the Carr Inlet/Henderson Bay/Hale Passage area; as well as the freshwater rivers and streams which drain into that area;</li> <li>2. Those salt waters north and east of a line drawn from Hyde Point on McNeil Island to Gordon Point on the mainland and south of those marine areas already adjudicated to be usual and accustomed fishing grounds and stations of the Puyallup Tribe in this case at <u>384 F.Supp. 312, 371</u> generally known as the Narrows area.</li> </ol>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 370 (W.D.Wash. 1974)</p>
		<p><i>U.S. v. State</i>, 626 F.Supp. 1405, 1441 (W.D.Wash.1985)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<p><b>Quileute</b></p>	<p><b>Findings from original Boldt decision:</b></p> <p>Before, during and after treaty times, the usual and accustomed fishing places of the Quileute and Hoh Indians included the Hoh River from the mouth to its uppermost reaches, its tributary creeks, the Quileute River and its tributary creeks, Dickey River, Soleduck River, Bogachiel River, Calawah River, Lake Dickey, Pleasant Lake, Lake Ozette, and the adjacent tidewater and saltwater areas. In aboriginal times the Quileute Indians utilized fishing weirs where salmon were caught along the Quillayute River. In 1861 James G. Swan encountered fish weirs about a mile up from the bend of the Quillayute River near its mouth and about a mile further upstream. Along the adjacent Pacific Coast Quileutes caught smelt, bass, puggy, codfish, halibut, flatfish, bullheads, devilfish shark, herring, sardines, sturgeons, seal, sea lion, porpoise and whale.</p> <p><b>Subsequent published decisions:</b></p> <p>Does not have rights in Columbia River estuary.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 372 (W.D.Wash. 1974)</p>
		<p><i>U.S. v. McGowan</i>, 62 F.2d 955 (9<sup>th</sup> Cir. 1932)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<b>Quinault</b>	<b>Findings from original Boldt decision:</b>	
	The usual and accustomed fishing places of the Quinault people within the case area at treaty time included the following rivers and streams: Clearwater, Queets, Salmon, Quinault (including Lake Quinault and the Upper Quinault tributaries), Raft, Moclips, Copalis, and Joe Creek. Ocean fisheries were utilized in the waters adjacent to their territory.	<i>U.S. v. State</i> , 384 F.Supp. 312, 374 (W.D.Wash. 1974)
	<b>Subsequent published decisions:</b>	
	Shared U&As at Grays Harbor and streams emptying into Grays Harbor.	<i>U.S. v. State</i> , 384 F.Supp. 312, 374 (W.D.Wash. 1974)
	Does not have rights in Columbia River.	<i>U.S. v. McGowan</i> , 62 F.2d 955 (9 <sup>th</sup> Cir. 1932)
	Quinault Tribe has usual and accustomed fishing areas at Grays Harbor and its watersheds including the Humpulips River.	<i>U.S. v. State</i> , 459 F.Supp. 1020, 1038 (W.D.Wash. 1975)

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Samish	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>Originally court determined that Samish had no treaty fishing rights, in part because the Tribe was not federally recognized.</p>	<p><i>U.S. v. State</i>, 641 F.2d 1368, 1372 (1981)</p>
	<p>Court held that 1996 federal recognition of tribe was extraordinary circumstance allowing Samish Tribe to have its treaty fishing rights determined in subsequent proceedings.</p>	<p><i>U.S. v. State</i>, 394 F.3d 1152, 1162 (2005)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Sauk-Suiattle	<p><b>Findings from original Boldt decision:</b></p> <p>The usual and accustomed fishing places of the Sauk River Indians at the time of the treaty included Sauk River, Cascade River, Suiattle River and the following creeks which are tributary to the Suiattle River-- Big Creek, Tenas Creek, Buck Creek, Lime Creek, Sulphur Creek, Downey Creek, Straight Creek, and Milk Creek. Bedal Creek, tributary to the Sauk River, was also a Sauk fishing ground.</p> <p><b>Subsequent published decisions:</b></p> <p>Shoalwater Bay - No treaty rights.</p>	<p><i>U.S. v. Staltz</i>, 384 F.Supp. 312, 376 (W.D.Wash. 1974)</p>
		<p><i>Tribes of the Chehalis Indian Reservation, et al v. State</i>, 96 F.3d 334, 344 (1996)</p>



Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
<b>Shoalwater Bay</b>	<b>Findings from original Boldt decision:</b>  None.	
	<b>Subsequent published decisions:</b>  None.	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Skokomish	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>The usual and accustomed fishing places of the Skokomish Indians before, during and after treaty times included all the waterways draining into Hood Canal and the Canal itself. Saltwater trolling and spearing were less important than river fisheries.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 377 (W.D.Wash. 1974)</p>
	<p><b>Subsequent published decisions:</b></p> <p>None.</p>	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Snohomish	<b>Findings from original <u>Boldt</u> decision:</b> None.	
	<b>Subsequent published decisions:</b> No treaty rights.	<i>United States v. Samish, et al</i> , 641 F.2d 1368 (9 <sup>th</sup> Cir. 1981)

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Snoqualmie	<b>Findings from original Boldt decision:</b>  None.	
	<b>Subsequent published decisions:</b>  No treaty rights.	<i>United States v. Samish, et al</i> , 641 F.2d 1368 (9 <sup>th</sup> Cir. 1981)

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Snoqualmoo	<b>Findings from original <u>Boldt</u> decision:</b> None.	
	<b>Subsequent published decisions:</b> None.	

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Squaxin Island	<p><b>Findings from original Boldt decision:</b></p> <p>During treaty times the Squaxin Island Indians fished for coho, chum, chinook, and sockeye salmon at their usual and accustomed fishing places in the shallow bays, estuaries, inlets and open Sound of Southern Puget Sound and in the freshwater streams and creeks draining into those inlets.</p> <p><b>Subsequent published decisions:</b></p> <p>At the time of the Treaty of Medicine Creek, 10 Stat. 1132, the Squaxin Island Indian Tribe and its members regularly fished in the following described areas:</p> <ol style="list-style-type: none"> <li>1. Those salt waters north and west of a line drawn from Mahnekes Point on the Kitsap peninsula to the westernmost point of McNeil Island bordering on Pitt Passage, then extending from Hyde Point on McNeil Island to Gibson Point on Fox Island and then extending from Fox Point on Fox Island to Point Fosdick on the Kitsap peninsula, generally known as the Carr Inlet/Henderson Bay/Hale Passage area; as well as the freshwater rivers and streams which drain into that area;</li> <li>2. Those salt waters north and east of a line drawn from Hyde Point on McNeil Island to Gordon Point on the mainland and south of the Tacoma Narrows Bridge.</li> </ol>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 378 (W.D.Wash. 1974)</p>
		<p><i>U.S. v. State</i>, 626 F. Supp. 1405, 1441 (1985)</p> <p><b>FOF 337</b></p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Steilacoom	<b>Findings from original <u>Boldt</u> decision:</b> None.	
	<b>Subsequent published decisions:</b> No treaty rights.	<i>United States v. Samish, et al</i> , 641 F.2d 1368 (9 <sup>th</sup> Cir. 1981)

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Stillaguamish	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>During treaty times and for many years following the Treaty of Point Elliott, fishing constituted a means of subsistence for the Indians inhabiting the area embracing the Stillaguamish River and its north and south forks, which river system constituted the usual and accustomed fishing places of the tribe. Salmon and steelhead were eaten in both fresh and cured form.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 379 (W.D.Wash. 1974)</p>
	<p><b>Subsequent published decisions:</b></p> <p>Tribe has not followed proper procedure for establishing usual and accustomed fishing areas in the northern portion of Port Susan.</p>	<p><i>U.S. v. State</i>, 459 F.Supp. 1020, 1068 (1978)</p>



Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Suquamish	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>The usual and accustomed fishing places of the Suquamish Tribe include the maine waters of Puget Sound from the northern tip of Vashon Island to the Fraser River including Flaro and Rosario Straits, the streams draining into the western side of this portion of Puget Sound and also Hood Canal.</p>	<p><i>U.S. v. State</i>, 459 F. Supp. 1020, <b>1049</b> (1978)</p> <p><b>FOF 5</b></p>
	<p>Not entitled to exercise fishing rights on the east side of Puget Sound.</p>	<p><i>U.S. v. Suquamish</i>, 901 F.2d 772, <b>778</b> (1990)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Swinomish	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p>The usual and accustomed fishing places of the Swinomish Tribal Community include the Skagit River and its tributaries, the Samish River and its tributaries and the marine areas of northern Puget Sound from the Fraser River south to and including Whidbey, Camano, Pidalgo, Guemes, Samish, Cypress and the San Juan Islands, and including Bellingham Bay and Hale Passage adjacent to Lummi Island.</p>	<p><i>U.S. v. State</i>, 459 F. Supp. 1020, 1048 (1978)</p>
	<p>The district court interpreted this finding to exclude waters in Area 10 because the southern tip of Whidbey Island, the southernmost land point named, lies seven miles north of the northernmost part of Area 10.</p> <p>The marine areas of northern Puget Sound ... south to and including Whidbey Island does not include any portion of Area 10</p>	<p><i>Muckelshoat, et al v. Lummi</i>, 141 F.3d 1355, 1358 (1998)</p> <p><i>Muckelshoat, et al v. Lummi</i>, 141 F.3d 1355, 1359 (1998)</p>

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Tulalip	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>None.</p>	
	<p><b>Subsequent published decisions:</b></p> <p><b>MARINE FISHERY</b></p> <p>The following described areas are found to be usual and accustomed marine fishing areas of the Tulalip Tribes of Washington: Beginning at Admiralty Head on Whidbey Island and proceeding south, those waters described as Admiralty Bay and Admiralty Inlet, then southeasterly to include the remainder of Admiralty Inlet including Mutiny and Useless Bay, then northeasterly to include Possession Sound and Port Gardner Bay, then northwesterly to include the waters of Port Susan up to a line drawn true west of Kyak Point and Holmes Harbor and Saratoga Passage up to a line drawn true west of Camano on Camano Island.</p>	<p><i>United States v. Washington</i>, 459 F.Supp. 1020, 1059 (W.D.Wash. 1975)</p> <p><b>(NOTE: These findings are provisional and superseded by settlement agreements and findings in 626 F.Supp. 1405 below.)</b></p>
	<p><b>FRESH WATERS</b></p> <p>The court is satisfied that the Indians who settled on the Snohomish Reserve and the Tulalip Reservation, and whose descendants comprise the numerical majority of the present Tulalip Tribes, were members of tribes known today as</p>	<p><i>United States v. Washington</i>, 459 F.Supp. 1020, 1060 (W.D.Wash. 1975)</p>

<p>Snoqualmie, Snohomish and Skykomish. The following usual and accustomed fresh water fishing places of the foregoing tribes are for present purposes the usual and accustomed fishing places of the <u>Tulalip Tribes</u> subject to the conditions below: the Snohomish River system including tributaries and fresh water lakes and the Snoqualmie and Skykomish River systems.</p> <p><b>CONDITIONS:</b></p> <p>These findings of the Tulalip Tribes' usual and accustomed fishing places are provisional until further order of the court. The court will entertain future argument and receive further evidence, from any affected party, going to possible expansion or limitation of these provisional findings and whether the findings should be made permanent. Ruling on the Tulalip Tribes' claims of exclusive fishing areas is reserved pending receipt of further evidence and argument. These provisional findings shall have no application whatsoever upon claimed usual and accustomed fishing places by the Duwamish, Samish, Snohomish, Snoqualmie and Steilacoom tribes.</p>	<p><b>(NOTE: These findings are provisional and superseded by settlement agreements and findings in 626 F.Supp. 1405 below.)</b></p>
<p>There is sufficient specific documentation and evidence to establish <u>usual and accustomed fishing</u> by Tulalip predecessors at the following locations:</p> <p>(a) Admiralty Inlet, including its Whidbey Island bays; Saratoga Passage, Penn Cove and Holmes Harbor; Possession Sound and Puget Sound south of Whidbey Island to the present West Point Lighthouse, including Tulalip Bay and Port Gardner. (Lane, TR July 18, 1983, 635-637, 651-653, 683; Dover Deposition 18, 26-28).</p> <p>(b) Waterman recorded Snohomish place names for locations on the eastern shore of the Puget Sound in the vicinity of Pt. Edwards and Pt. Wells, named Stu-bus and He'i-s-tu-bus. (Exh. USA-103 (T-M-14), Appendix 1)). Hudson Bay Company records refer to encounters with Snohomish at Murden Cove at Bainbridge Island (Exh. T-M-26, entry for July 7, 1827).</p> <p>(c) The entire Port Susan inlet except close to the mouths of the Stillaguamish River (Lane, TR July 18, 1983, 634, 691, 704-705; Lane, TR July 30, 1975, 80, 93).</p> <p>(d) The waters off the west coast of the Whidbey Island including those</p>	<p><i>United States v. Washington</i>, 626 F. Supp. 1405, <b>1530</b> (W.D. Wash. 1982)</p> <p><b>FOF 380</b></p>

	<p>northerly and westerly from the West Beach shoreline from Deception Pass to Pt. Partridge. (Lane, TR July 18, 1983, 692).</p>	
<p>IN-COMMON</p> <p>In addition to the above, the evidence as a whole, when applied consistently with this court's prior Findings of Fact, notably Nos. 10, 13, 14, 26, and 28 (384 F.Supp. 312-357), and its prior legal holdings set out in 384 F.Supp. at 332 and 459 F.Supp. 1020, 1059, is sufficient to establish (subject to the limitation set out in Finding No. 383, below), that at treaty times the predecessor Indian groups to the Tulalip Tribes customarily fished in the following marine areas and that such areas were therefore <u>usual and accustomed</u> fishing grounds of those groups <u>in common</u> with other groups:</p> <p>(a) Point Roberts, Birch Bay and adjacent waters now designated WDF Area 7.A.</p> <p>(b) The waters of the San Juan Archipelago, Haro Strait and Rosario Strait and the portion of the Strait of Juan de Fuca northeasterly of a line drawn from Trial Island (in Canada) to Protection Island.</p> <p>(c) The waters of WDF Area 10.</p>	<p><i>United States v. Washington</i>, 626 F. Supp. 1405, 1530 (W.D. Wash. 1982)</p> <p><b>FOF 381</b></p>	
<p>The freshwater <u>usual and accustomed</u> fishing area of the Tulalip predecessors includes the Snohomish-Snoqualmie-Skykomish River drainage area including its freshwater lakes. (Dover Deposition 21). They also were permitted to fish on the Stillaguamish River only with the permission and at the invitation of the Stillaguamish Tribe.</p>	<p>The only areas so considered in this determination are those described in the Tulalip Tribes' written closing argument as follows:</p> <p>"[T]he open marine waters of the following areas: (a) adjacent to the San Juan Islands including Rosario Strait (excluding reefnet sites and certain enclosed areas), (b) the eastern portion of the Strait of Juan de Fuca, (c) Admiralty Inlet and the environs of Whidbey Island, (d) Possession Sound, Saratoga Passage and Port Susan, (e) the central area of Puget Sound; and (f) the freshwater areas of the Snohomish-Snoqualmie-Skykomish river</p>	<p><i>United States v. Washington</i>, 626 F. Supp. 1405, 1530 (W.D. Wash. 1982)</p> <p><b>FOF 382</b></p>
		<p><i>United States v. Washington</i>, 626 F. Supp. 1405, 1530 (W.D. Wash. 1982)</p> <p><b>COL 98</b></p>

	<p>drainage system * * * together with the Stillaquamish River system. The only tribe whose extent of use of any of those areas was considered in this determination was the Tulalip Tribes and its predecessor entities.</p> <p><b>IN-COMMON:</b></p> <p>(a) Subject to the limitations elsewhere expressed in these findings and conclusions*1532 the Tulalip Tribes' in-common fishing right area includes the open marine waters northerly from a true east-west line passing through the Pt. Vashon light (the present southern boundary of WDF Area 10) to the Canadian border and westward into that portion of the United States' waters of the Strait of Juan de Fuca that is easterly of a line extending northwesterly from the northernmost tip of Protection Island to Trial Island (in Canada).</p> <p>(b) <u>Excluded from this Tulalip in-common fishing right area are the following areas:</u></p> <ul style="list-style-type: none"> <li>i. Any waters included in the reservation of another tribe.</li> <li>ii. That portion of WDF Area 8 northeasterly of a line drawn between Strawberry Point on Whidbey Island and Brown Point on Camano Island, including Swinomish Channel (a.k.a. Swinomish Slough), Deception Pass, Hale Passage (off Lummi Island) and WDF Area 7D, <i>provided</i>, that with respect to any other area of the types referred to in Finding of Fact No. 379 that heretofore has been, or may hereafter be, found by this court, or agreed to by the affected tribes, to be a primary right area of another tribe, the Tulalip fishing right is subordinate to the primary right of such other tribe.</li> <li>iii. Those areas within which the Tulalip Tribes has contracted not to claim a non-permissive fishing right in the stipulated agreements identified in Finding of Fact No. 383 herein. The areas specifically withdrawn from the Tulalip Tribes' claim pursuant to those negotiated settlements are: <ul style="list-style-type: none"> <li>1. The portions of WDF Areas 6 and 6B southerly and westerly of a line drawn from Point Wilson westerly to McCurdy Point, thence westerly to the northernmost tip of Protection Island and thence northwesterly to Trial Island and all of WDF Area 6D.</li> </ul> </li> </ul>	<p><i>United States v. Washington</i>, 626 F. Supp. 1405, 1532 (W.D. Wash. 1982)</p> <p><b>COL 100</b></p>
--	--	--

	<p>2. WDF Areas 7B and 7C.</p> <p>3. Those portions of WDF Area 10 easterly of a line drawn from Alki Point to West Point thence to Meadow Point (all in Seattle) and all of WDF Areas 10A, 10C, 10D, 10F and 10G (formerly 10B);</p> <p>4. All waters south of a true east-west line passing through the Pt. Vashon light;</p> <p>5. Those portions of WDF Area 10 westerly of a line drawn from Point Monroe on Bainbridge Island to Point Jefferson on the Kitsap Peninsula and all of WDF Area 10E;</p> <p>6. Those portions of WDF Area 9 south and west of a line drawn from Foulweather Bluff to Kinney Point, on the southernmost tip of Marrowstone Island, and south and west of a line drawn from Marrowstone Point, on the northernmost tip of Marrowstone Island, to Point Wilson, including Kilisnoe Harbor, and all of WDF Area 9A;</p> <p>7. All waters southwesterly of the northern boundary of WDF Area 12; and</p> <p>8. All freshwaters draining into the waters described in this part 7(b) iii.</p> <p>iv. Any other area to which a particular tribe or tribes hereafter establishes that it historically exercised paramount or preemptive fisheries control (primary right control) at treaty time.</p>	
--	---	--

Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Upper Skagit	<p><b>Findings from original <u>Boldt</u> decision:</b></p> <p>At treaty time, the usual and accustomed fishing places of the Upper Skagit Tribe included numerous areas along the Skagit River, extending from about Mt. Vernon upstream to Gorge Dam.</p> <p><b>Subsequent published decisions:</b></p> <p>Upper Skagit have usual and accustomed areas including "the marine and fresh waters, tidelands, and bedlands adjacent and subjacent thereto of the areas along the Saratoga Passage on the east coast of Whidbey Island from Sneatum Point in the vicinity of Penn Cove and Harrington's Lagoon to Holmes Harbor, and on Camano Island from Utsaladdy to what is now the vicinity of Camano Island State Park and Elger Bay. In addition, these predecessor groups of the Upper Skagit also fished at the following marine and tideland locations: Deception Pass, Similk Bay, and southward to and including Penn Cove and Utsaladdy. Because the Upper Skagit have succeeded to the interests of these predecessor groups, the Upper Skagit also have the right to take fish from these usual and accustomed grounds and stations."</p> <p>The Tribe's usual and accustomed areas also include "the marine and fresh waters, tidelands, and bedlands adjacent and subjacent thereto of the vicinity of Bayview on Padilla Bay to the vicinity of Blanchard on Samish Bay up to and including Chuckanut Bay."</p>	<p>U.S. v. State, 384 F. Supp. 312, 379 (1974)</p> <p>U.S. v. Wash., 873 F.Supp. 1422, 1449-50 (1994)</p>



Court Orders Pertaining to Adjudicated  
Usual and Accustomed Tribal Fishing Grounds  
- Western Washington Tribes -

Tribe	U & A Description or Holding	Cite
Yakima	<p><b>Findings from original Boldt decision:</b></p> <p>Since there was more intermarriage and communication with those Indians now called Nisqually, Puyallup, Muckleshoot, and Snoqualmie, fisheries in their area of residence were more commonly used by members of the Yakima Indian Nation. These fisheries in the area of this case's inquiry included the waters of the Snoqualmie, Snohomish, Green, Puyallup, Nisqually, Stuck, Duwamish, White, Carbon, and Black Rivers and their tributaries.</p>	<p><i>U.S. v. State</i>, 384 F.Supp. 312, 380-81 (W.D.Wash. 1974)</p>
	<p><b>Subsequent published decisions:</b></p> <p>No marine usual and accustomed fishing areas.</p>	<p><i>U.S. v. Washington</i>, 873 F.Supp. 1422, 1447-48 (W.D.Wash. 1994)</p>