



2022 Virtual Winter Convention

RESOLUTION #2022 – 00

“PREVENTING WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE AND ATTORNEY GENERAL’S OFFICE TREATY RIGHTS VIOLATIONS”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties, Executive Orders and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, California, and Alaska; and

WHEREAS, health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

WHEREAS, the Stevens Treaty Tribes have harvested fish and shellfish within usual and accustomed areas throughout the Pacific Northwest (“U&A”) since time immemorial; and

WHEREAS, in 2014, Tulalip Tribal members Hazen Shopbell and Anthony Paul formed Puget Sound Seafood Distributors, LLC (“PSSD”), headquartered the company on the Tulalip Reservation, and received a business license and Fish Dealers license from the Tulalip Tribes to purchase and sell salmon and Dungeness crab harvested by Tribal members in the U&A throughout the Puget Sound; and

WHEREAS, in 2015, a Washington State Department of Fish and Wildlife (“WDFW”) detective began to investigate PSSD for “monopolizing the Tulalip crab fishery” and accused PSSD of “reverse racism” in 2016 after a non-Indian wholesale fish buyer complained that Tulalip fishermen told him, “We’re gonna sell to our own kind now”; and

WHEREAS, from 2016 to 2022, the WDFW detective, with help from the Washington State Attorney General’s Office (“AGO”), committed multiple violations of the Treaty of Point Elliot and other federal and Tulalip Tribal law, including the “Rafeedie” Consent Decree, *U.S. v. Washington*, 19 F. Supp. 3d 1126 (W.D. Wash. 1994), by:

- Executing a Superior Court warrant without notice to the Tulalip Board of Directors after the WDFW detective wrote in italics: “*Due to concerns regarding confidentiality, the Tulalip Tribes will not be contacted regarding this matter until after service of the search warrant*”;
- Driving onto the Tulalip Reservation and surveilling the homes of Tulalip Treaty clam harvesters without any warrant or permission from the Tulalip Tribes;
- Engaging in what the Superior Court called “shopping” the prosecution of criminal charges against Mr. Shopbell and Mr. Paul to at least five law enforcement agencies;
- Failing to advise the Pierce County Prosecuting Attorney that Tulalip “defendants ha[d] a...complete defense” to alleged shellfish trafficking charges; and
- Dismissing the Tulalip Tribes’ objection to a Skagit County Superior Court prosecution of their Tribal members under *U.S. v. Washington*, as a “tactic” and “game”; and

WHEREAS, in October 2021, the Northwest Indian Fish Commission (“NWIFC”) wrote WDFW “object[ing] to enforcement action by DFW agents against any tribal members on tribal reservation lands and usual and accustomed fishing locations,” and explaining: “DFW is confiscating tribal members’ boats and vehicles from treaty territories and waters. These unnecessary actions leave tribal members without any way to work and put food on their families’ tables. . . . DFW is focusing its enforcement efforts against tribal members who typically do not have the resources to defend themselves. DFW is violating treaties and federal, state, and tribal laws in the process. That is no way to co-manage our fisheries resources.”; and

WHEREAS, in January 2022, the Tulalip Tribes wrote WDFW: “The State’s prosecution of these WDFW-referred criminal charges perpetuates our community’s perception that WDFW is disproportionately targeting tribal members for enforcement actions.”; and

WHEREAS, on January 3, 2022, the Skagit County Superior Court dismissed the five felony charges against Mr. Shopbell and Mr. Paul pursuant to the Treaty of Point Elliott and the Rafeedie Consent Decree; Superior Court Judge Brian Stiles stated: “My decision is consistent with the heart of the Treaty and Rafeedie Consent Decree, preserving Treaty rights that were gained many years ago. This court shouldn’t be involved in those issues.”; and

WHEREAS, the Skagit County Prosecuting Attorney has indicated he will not appeal the Skagit County Superior Court’s dismissal to the Washington State Court of Appeals; the decision whether to appeal will be made by Attorney General Robert Ferguson by February 4, 2022; and

THEREFORE BE IT RESOLVED, the Affiliated Tribes of Northwest Indians call upon:

1. Attorney General Robert Ferguson to forgo any appeal of the Skagit County Superior Court dismissal to the Washington State Court of Appeals.
2. Governor Jay Inslee and/or Attorney General Ferguson to initiate an investigation of any WDFW and AGO violations of law or policy associated with the agencies' investigation and prosecution of PSSD, Mr. Shopbell, or Mr. Paul; and report the findings to the Northwest Indian Fish Commission.
3. The Washington State Legislature to require WDFW to disclose the direct and indirect costs associated with its investigation and prosecution of PSSD, Mr. Shopbell, and Mr. Paul.
4. WDFW to impose a moratorium against impounding Tribal members' boats and vehicles from Treaty territories and waters and instead defer to Tribal authorities for appropriate enforcement under applicable federal and Tribal law.

CERTIFICATION

The foregoing resolution was adopted at the 2022 Virtual Winter Convention of the Affiliated Tribes of Northwest Indians, Portland, Oregon, on January 24-27, 2022, with a quorum approving.

Leonard Forsman, President

Norma Jean Louie, Secretary