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THE TULALIP TRIBES

**NATURAL AND CULTURAL
RESOURCE DEPARTMENT**

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The Tulalip Tribes are the
successors in interest to the
Snohomish, Snoqualmie, and
Skykomish tribes and other
tribes and band signatory to
the Treaty of Point Elliott

Forest Supervisor
Objection Reviewing Officer
Mt. Baker-Snoqualmie National Forest,
Attn. 1570 Appeals and Objections
2930 Wetmore Ave.
Everett, WA 98201

Re: Objection, North Fork Nooksack Access and Travel Management Plan

September 9, 2016

Dear Ms. Kingsbury,

Thank you for the opportunity to further comment on the North Fork Nooksack Access and Travel Management (ATM) Decision, by offering a "friendly objection". As you know, Tulalip is a federally recognized sovereign Indian tribe within Western Washington, and is the successor in interest to the Snohomish, Snoqualmie, Skykomish tribes, and other tribes and bands signatory to the Point Elliott Treaty of 1855. The Tulalip Tribes expressly reserved off-reservation fishing rights and the right to hunt and gather on all off-reservation "open and unclaimed lands".

As an Agency of the United States Government, the Forest Service has a federal trust responsibility to protect the treaty and cultural rights of all federally recognized tribes. In November of 2007, the Tulalip Tribes signed an historic Memorandum of Agreement with the Mt. Baker-Snoqualmie National Forest to help foster greater communication and collaboration in the management of the forest, and help facilitate cultural practices and the exercise of treaty protected hunting, fishing and gathering rights.

The Tulalip Tribes have repeatedly communicated our concerns about closing roads which provide needed access for Tribes to exercise their reserved treaty rights and access culturally important and sacred sites, through the Sustainable Roads Initiative and specifically, for this project, through the NEPA process and tribal consultation for the Upper North Fork Nooksack ATM. We also have outlined concerns regarding potential degradation of fisheries and fisheries habitat, and the importance of road maintenance and repairs, as it relates to the Upper North Fork Nooksack River area and road system.

We believe it is essential that MBS retain access for the exercise of treaty rights and for other statutory-protected cultural and spiritual activities and access to sacred sites. As we have stated in our previous comments of March 21, 2016 (attached), and further comments submitted via formal Tribal Consultation, we ask that MBS carefully consider their trust responsibility to tribes in approaching the road system and considering changes or closures to it, since roads play a huge part in determining the practical extent to which tribes can exercise their cultural and treaty rights.

In regards to the Nooksack ATM, we believe that the “Modified Alternative” outlined in the Draft Decision Notice in July, 2016, addresses some of concerns Tulalip has raised regarding access, as well as conservation of fisheries within the ATM area. We were glad to see treaty language and treaty trust responsibilities spelled out in the draft Decision document, as well as some explanation to the public of the Forest Service’s responsibility to maintain tribal access, and the unique and dynamic nature of that access need. We also appreciate your understanding that heavily used roads are not as compatible with treaty and other cultural or sacred sites use, and that privacy and protection from public disclosure with regard to some sites and activities is important. We also support your “adaptive” approach in the ATM that will hopefully enable flexibility to respond to environmental or fiscal changes as you move forward.

In addition to what we communicated in our earlier correspondence of March 21, 2016 (attached), below are some additional specific comments regarding the draft decision memo and the proposed “Modified Alternative”:

- We agree with your characterization of treaty rights exercise and access as a trust responsibility of the Forest Service and as one type of “administrative use”
- We support the concept of “seasonal closures” to help minimize the impact to treaty and cultural access such as that proposed for roads 33 and 36.
- We support retaining roads that have been outlined in the memo that we had raised concerns about in our 3/21/16 letter, including 31 and 3140 (the latter as a high clearance road, which we believe best support cultural and treaty access, since fewer vehicles/people will use the road, and more privacy allows for certain cultural activities to be practiced)
- We support conservation measures outlined in the memo to support healthy fish populations and their habitats, and to address threatened or endangered species
- In regards to roads that will be closed through this decision memo, and given the changing environment and treaty resource availability, and sacred places, we hope to be able to continue to work with you to consider allowing their use for tribal cultural and treaty access at some time in the future, as needed.

We urge that you maintain these provisions at a very minimum moving forward to address Tulalip’s concerns and treaty and cultural rights. As you are aware, there are other Pt. Elliott treaty tribes who reside near and/or depend on this area. We know they have significant knowledge of these areas, as well as their own specific needs to ensure they are able to exercise their treaty rights and cultural practices in the area. We trust you will give them your full consideration as you make a final decision on the ATM, as we can only represent Tulalip’s needs and concerns.

Thank you and we appreciate the opportunity to be involved once again as you consider any objections to the draft Nooksack ATM Decision, and move forward with a final decision.

Sincerely,



for
Ray Fryberg, Executive Director
Tulalip Tribes Natural and Cultural Resources Department
360-716-4598