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Comments: Pacific Northwest Regional Forester's Office Elizabeth Berger, Acting Regional Forester
Attention: Pacific Northwest National Scenic Trail Comprehensive Plan Comments
1220 SW 3rd Avenue Suite 1700
Portland, OR 97204
August 25, 2023
RE: Decision Notice and Finding of No Significant Impact for the Pacific Northwest National Scenic Trail Comprehensive Plan
Dear Ms. Berger: The Tulalip Tribes of Washington is a federally recognized sovereign Indian government, successor in interest to the Snohomish, Snoqualmie, and Skykomish tribes as well as other allied tribes and bands signatory to the 1855 Treaty of Point Elliott. As such, Tulalip holds treaty[shy] reserved rights, as well as historical/archaeological resources on national forest lands, other public federal and state lands, and other areas through which the Pacific Northwest Trail (PNT) traverses. Tulalip objects to the Draft Decision Notice and Finding of No Significant Impact for the Pacific Northwest National Scenic Trail (PNT) Comprehensive Plan. The PNT Comprehensive Plan fails to adequately consider the impacts from the development and future management of this trail on the treaty-reserved rights of the Tulalip Tribes, and of multiple other treaty tribes associated with the PNT corridor. In our earlier scoping comments, and comments on the Draft EA, we made several recommendations to address the plan's shortcomings, in order to better align the plan with federal obligations to treaty tribes. As outlined below, these important revisions were not integrated as we believe necessary:

- 1) Acknowledge the federal trust responsibility to protect treaty rights as a cornerstone of the trail management plan. In the 'Nature' and 'Purpose' statements, there is no mention that the trail traverses the ceded territories of tribes who possess reserved rights by treaty, and to which, the federal government maintains an obligation to protect and conserve. The statement mentions tribal history and traditional uses, but does not mention "reserved treaty rights" which carry a different meaning and indicates a specific burden on these lands. Further, since determination of 'trail capacity' and 'limiting factors' - two critical findings related to future trail corridor management - are based on the 'nature and purpose' statements, this is a critical and unacceptable omission from our federal trustee in characterizing the trail corridor.
- 2) Understand the potential impacts to treaty rights and resources. and manage for them. The comprehensive plan, as written, continues to lack analysis of the potential impacts of primary trail uses to our treaty-reserved rights and resources, or outline how such impacts would be prevented. While tribal consultation is suggested as a means to gather tribal input in the plan's implementation, the federal trust obligation extends beyond consultation to the protection of the resources we hold rights to harvest. Ultimately, under this plan, we are left without adequate assurances that these rights will be protected, as we expect to see from the Forest Service, our federal trustee. (refer to Forest Service Manual, "the Federal Indian trust responsibility is defined as a legally enforceable fiduciary obligation, on the part of the United States; to protect tribal lands, assets, resources, and reserved rights... This responsibility requires that the Federal Government consider the best interests of the Indian tribes... when taking actions that may affect them." (FSM 1563.Bb, heading 2- Trust Responsibility).
- 3) Account for treaty rights and treaty resources protection and access as a 'limiting factor' in determining Visitor/Trail Capacity ranges. While several limiting factors were designated where the trail route overlaps important geographic areas that carry key considerations, like grizzly bear habitat, there is no inclusion of such overlap on tribal treaty areas. The federal obligation to protect tribal treaty rights and interests as a 'limiting factor' in this determination, would have helped ensure treaty rights protections were given deference early in the development and management of the PNT, as well as over the long term, and as consistent with federal obligations to treaty tribes. Based on the above inadequacies, Tulalip objects to the Comprehensive Plan as written, and requests that the above changes are made to address tribal treaty rights and federal obligations to protect them in the future management of the PNT. We have attached our previous comments on the PNT, as well as Tulalip's research document on recreation impacts to wildlife and treaty rights implications that supports our concerns. Thank you for the opportunity to share our concerns, and offer revisions needed. If you wish to discuss this letter, please feel free to contact me.

Sincerely, Libby Halpin Nelson
Senior Environmental Policy Analyst, The Tulalip Tribes
Tulalip-Forest Service MOA Administrator