



May 26, 2023

WFWC Commissioners  
<sent via email>

RE: Co-Manager Hatchery Policy

Dear Commissioners:

The Tulalip Tribes, Upper Skagit Indian Tribe, Squaxin Island Tribes, and Lummi Nation, along with the other Puget Sound Treaty Tribes, have been managers of the sustainable salmon resource since time immemorial. We continue to engage in salmon management as Co-Managers with the State of Washington since the 1974 Boldt Decision reaffirmed and codified the Tribal management role in the non-Tribal world. With a growing population of Tribal members who depend on salmon for ceremonial, subsistence, and commercial (among other) purposes, we view protecting and preserving salmon fisheries as paramount to provide for Treaty harvest in perpetuity. Thus, we engage in all aspects of salmon management as summarized by the 4-Hs: Habitat, Hydro, Hatcheries, and Harvest. The purpose of this letter is to continue the work of the Tribal and State Co-Managers toward the adoption of the Co-Manager Hatchery Policy, which is the result of much time and effort by our staff and policy leads, and to briefly address some of the questions and comments we have heard mentioned at recent Washington Fish and Wildlife Commission (WFWC) meetings. Finally, we urge the WFWC to dedicate time during upcoming meetings to discuss this important Co-Manager Hatchery Policy directly with your Tribal Co-Managers.

Much time, effort, and collaboration has been invested in this work by the Co-Managers and we appreciate that the WFWC has demonstrated a good faith effort to avoid unnecessary delays by moving the SEPA checklist forward in its April meeting. The work over more than two years on the Co-Manager Hatchery Policy has been challenging and full of robust conversations and represents a policy that we can agree upon. The State and Tribes had their most knowledgeable and capable technical and policy staff develop this Co-Manager Hatchery Policy, and it is something we believe we can and must move forward to adoption.

We acknowledge that there are new Commissioners appointed who are new to the issues, and we respectfully request that they demonstrate commitment and confidence in the work completed to date. We hope to see the WFWC continue to demonstrate the same collective commitment toward moving this policy forward to adoption, as we have seen since the start almost two years ago.

## History

This work product originated before 2009 when WFWC unilaterally adopted State Hatchery Policy C-3619, then unilaterally changed it again in 2021 with the passage of Hatchery Policy C-3624.

Our December 1, 2020<sup>1</sup> letter sent to WDFW Director Susewind and then WFWC Chair, Larry Carpenter, expressed our deep concern about the many unilateral actions of the State impacting Co-Manager responsibilities in violation of its legal obligation to follow the law of *U.S. v. Washington* and subsequent legal proceedings such as the court-ordered Puget Sound Salmon Management Plan (PSSMP). The Tulalip Tribes alone wrote a dozen policy letters within five years after the initial policy, six to the State and six to NOAA Fisheries, and several more since that time; all relating either to the original Hatchery and Fishery Reform Policy, management of hatchery and natural-origin fish, and spinoff problems related to the unilateral policy such as litigation, fisheries management conflicts, Co-Manager communication problems, etc. Those concerns are very much alive today due to the long history of the State's unilateral actions and lack of Co-Management in the technical, policy and legal realms regarding our shared salmon resources.

The State made a step in the right direction with C-3624 by documenting acknowledgement and commitment to develop a Co-Manager Hatchery Policy where we will work in lockstep, and that this new Co-Manager Hatchery Policy would supersede it. This was viewed as a key milestone by Tribes—that the State was finally going to be true to their verbal promises to act as a Co-Manager as required under existing law under the PSSMP. As adopted, C-3624 states:

*“Upon adoption of this Policy by the Commission, the Director is tasked to begin development of a joint policy agreement on salmon and steelhead hatchery programs with Tribal Co-Managers that has similar development and joint commitment provisions to those in “The Salmonid Disease Control Policy of the Fisheries Co-Managers of Washington State.” This Hatchery Policy serves as the State’s interim guidance until a joint policy agreement is developed with Puget Sound, Coastal, or Columbia River Tribal Co-Managers. When completed and approved by Tribal Co-Managers and the Commission, new Tribal Co-Manager joint policy agreements shall supersede the provisions of this Policy in the geographic area applicable to the agreement<sup>2</sup>.”*

We appreciate the work and expertise that our collective technical and policy staff brought to the table to finalize the Co-Manager Hatchery Policy. The Co-Managers purposely agreed to frame the Co-Manager Hatchery Policy in broad general terms (e.g., regarding our jointly held Goals, Guiding Principles and Policy Positions) to get agreement across the State due to the complex, differing jurisdictions and management agreements found in case law between Puget Sound, the Columbia Basin, and the Washington Coast. We clarified in the Scope of the Policy that

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<sup>1</sup> December 1, 2020 Tribal letter to Director Susewind and WFC Chairperson, Larry Carpenter, attached.

<sup>2</sup> <https://wdfw.wa.gov/about/commission/comanager-hatchery-policy>

additional specifications of responsibilities, agreements, and operational requirements are more explicitly defined within the Co-Manager watershed agreements and bundled Hatchery Genetic Management Plans. It has not been an easy task, and now we urge the current WFWC to acknowledge the robust, cooperative process that has taken place and adopt this Co-Manager Hatchery Policy in a timely manner. The passage of this Co-Manager Hatchery Policy will be another clear step in the right direction to set a positive tone that the State Co-Manager understands and is truly committed to working with Tribes. This will be an improvement in the quantity and caliber of science that we can jointly produce together in the implementation of our joint resource management hatchery plans.

Completion and passage of a Co-Manager Hatchery Policy is of paramount importance to our Tribes and has been for 15 years. We are nearly at our collective goal, and we urge the Commission to avoid any further delays in moving it forward. We deeply appreciate the work that past Commissioners have dedicated toward this effort, especially former Commissioner and Fish Committee Chair, Dr. Don McIsaac. We appreciate his commitment, deep knowledge of legal obligations per *U.S. v. Washington*, *U.S. v. Oregon* and subsequent case law such as the PSSMP developed by the Co-Managers and adopted by the court in *U.S. v. Washington* as the legal basis for Co-Management. Though we did not always agree, we were able to negotiate and move this Co-Manager Hatchery Policy forward collectively as Co-Managers. We appreciate the ongoing efforts of Chairperson Baker and hope to see continued dedication and actions toward the successful passage of the Co-Manager Hatchery Policy.

We would also like to offer a warm welcome to the new WFWC members and extend an invitation to all WFWC members to meet with us informally to continue to facilitate a more harmonious Co-Manager relationship and mutual understanding of each Co-Managers' perspectives and challenges. We believe that a harmonious relationship requires a working knowledge of the Boldt Decision and the State's continually reaffirmed responsibility as a Co-Manager of the salmon resource for joint management of all four "H's" (Habitat, Hydro, Hatcheries, and Harvest). We welcome the opportunity to share our perspectives.

We wholeheartedly agree with Commissioner Rowland's idea about meeting with the Tribes involved with the development of the Co-Manager Hatchery Policy as we would like an opportunity to address some of the statements and questions which some of the new Commissioners expressed in recent WFWC meetings. We address a few brief points in this letter and suggest that our Tribal policy and technical staff meet the WFWC for face-to-face dialogue in upcoming meetings in June and July.

### **Salmon are the heart of our Culture and Treaty Rights**

Our Tribal members depend on salmon for conservation of the resource, ceremonial, subsistence, religious, spiritual, and commercial purposes, and we view protecting and preserving salmon fisheries as paramount to the protection of Treaty-reserved harvest in perpetuity and the preservation of our culture and heritage. We are salmon people, and they are sacred to us. They are at the heart of our ceremonies, our livelihoods, our culture, and way of life. Thus, we engage

in all aspects of salmon management to remediate the adverse effects of actions by the non-Indian populations that have depleted Washington's salmon runs.

Our elders reserved the right to fish in our Usual and Accustomed grounds and stations when they signed the eight Stevens Treaties in 1854-1856, which are the Supreme Law of the Land. The 1974 Boldt Decision reaffirmed our Treaty Rights and Co-Management authority. Subsequent case law has reaffirmed our Treaty Rights over and over, including that hatchery fish are Treaty fish, and that we must have harvestable salmon to have a meaningful Treaty Right. Yet Tribes are constantly required to remind the State of its responsibilities as a Co-Manager.

We view anti-hatchery perspectives and positions as anti-Tribal and anti-Treaty Rights. We are fully aware of third-party anti-hatchery groups whose position is that the only good hatcheries are "closed hatcheries" as publicly stated on record by Wild Fish Conservancy's Science Director at a State Senate legislative hearing on hatcheries. We caution WFWC that many of these anti-hatchery views are scientifically unbalanced, ignore more significant issues that salmon face, focus on narrow ideological perspectives, and conflict with Treaty Rights and Tribal sovereignty. They are misguided and many are factually incorrect, and we have heard several of these common themes repeated by WFWC members in recent public meetings. We think that direct communication between the Tribes and the WFWC is long overdue, and it is immediately necessary to set the record straight.

#### **Clarifying misinformation**

At the WFWC meeting in April, Commissioners Regan and Rowland indicated that hatcheries were simply a dichotomy of economics vs. conservation. The economics vs. conservation viewpoint is not new, we have often heard this same viewpoint from anti-hatchery groups, and this viewpoint, from our perspective, grossly oversimplifies the issue. As stated above, hatcheries support four basic, interwoven values in support of Treaty-reserved fishing rights: (1) conservation of the resource; (2) ceremonial, religious, and spiritual values; (3) subsistence values; and (4) commercial values.

Hatcheries are one component of the "Four H's". Habitat loss and degradation have severely reduced salmon abundance and productivity and the State must do more to protect and restore salmon habitat, enforce laws to protect salmon, and restrict unchecked population growth and urban sprawl. Hatcheries and Harvest have already been severely constrained and restricted without a positive response on salmon recovery. Overwhelming evidence supports that habitat degradation, both historic and ongoing, is the major driver of loss of production of naturally produced or "wild" salmon.

The new Co-Manager Hatchery Policy will be a step forward – not a step backward – in salmon recovery and the use of best available science, and we request a reasonable allotment of time to explain this and answer Commissioner's questions related to the misconceptions of anti-hatchery constituents. The Tribes are leaders in salmon recovery, monitoring, evaluation, and adaptive management, and in the development and implementation of our joint Co-Manager consensus

hatchery management watershed plans. The HGMPs and the consultation documents are far more thorough and comprehensive than C-3624, outdated HSRG guidelines, and other inadequate flawed evaluations that provide fuel for conflicts and litigation; hatchery Co-Management and program evaluation processes already in place are more professional, thorough, and have prevailed through repeated and detailed scrutiny.

We take a holistic view of salmon recovery and expect that our Co-Managers will take the same. Our watersheds have NOAA-approved Salmon Recovery Plans that Habitat, Hydro, Hatchery, and Harvest programs are all integrated within. Modern hatcheries and hatchery practices are an integral part of salmon recovery; first and foremost, as mitigation for the historic and ongoing loss and degradation of salmon habitat caused by non-Tribal entities and an ever-increasing population. The adverse and increasing environmental effects of climate change magnify the legacy of habitat problems in freshwater and are degrading marine food webs that are causing significant declines in salmon and steelhead survival. Economies and the growing population have flourished at the expense of Tribal communities and our salmon, and we now must rely on hatcheries to save them from extinction, provide fishing opportunities for non-Tribal citizens, and enable the exercise of our Treaty Rights that maintain our cultural identity. Our communities are suffering from the loss of salmon, an inequity that non-Tribal communities struggle to understand. The ecosystem services these mitigation hatchery fish provide are critical to thousands of other species.

Tribes have been managing the salmon resource since time immemorial and have been, and continue to be, the leaders in conservation. In all salmon management including habitat protection and restoration, resource monitoring, and harvest and hatchery program development and implementation, Tribes have led at the forefront to preserve and recover these stocks from the brink of extinction. We believe dozens of WDFW technical and policy employees would confirm the heavy lifting we have done to recover salmon populations and support both State and Tribal hatchery programs and integration with watershed and regional recovery plans.

Many Tribes have forgone, or severely constrained, fisheries in their watersheds only to see runs continue to decline due to habitat, environment, and population expansion issues beyond their control. Most Tribes, in their respective watersheds, lead or strongly support salmon habitat restoration and protection efforts. In fact, numerous Tribes are implementing reach-scale multi-million-dollar restoration projects and have been doing so for several decades.

Thank you again for advancing the SEPA checklist and demonstrating that the Co-Manager Hatchery Policy is moving forward, and that the State is doing their part to advance this important policy that we have collectively worked to develop. We look forward to dialogue between WFWC and Tribal technical and policy staff that have worked so hard to get agreement on a joint Co-Manager Hatchery Policy. We will follow up to discuss a plan for continued dialogue to work toward adopting the Policy.

Sincerely,

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Chairperson, Tulalip Tribes

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Scott Schuyler, Policy Representative, Upper Skagit Indian Tribe

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Kristopher Peters, Chairman, Squaxin Island Tribe



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Lisa Wilson, LIBC Councilmember, Lummi Nation

(cc):

Jay Inslee, Governor

Craig Bill, Director, GOIA

Kelly Susewind, Director, WDFW

Eric Neatherlin, Director, GSRO

Laura Blackmore, Director, PSP

Sincerely,

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Teri Gobin, Chairwoman  
Tulalip Tribes

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Scott Schuyler, Policy Representative  
Upper Skagit Indian Tribe

*Kristopher K. Peters*

Kristopher K. Peters (May 26, 2023 09:42 PDT)

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Kristopher Peters, Chairman  
Squaxin Island Tribe

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Lisa Wilson, LIBC Councilmember  
Lummi Nation

(cc):

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Teri Gobin, Chairwoman  
Tulalip Tribes

*Scott Schuyler 5/26/2023*

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Upper Skagit Indian Tribe

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Sincerely,

DocuSigned by:

*Teri Gobin*

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Teri Gobin, Chairwoman  
Tulalip Tribes

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Upper Skagit Indian Tribe

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