A nautical chart of the Makah and Nehalem rivers in Washington state. The chart shows depth contours, navigational markers, and various management boundaries. A prominent purple shaded area covers a large section of the river, representing a management zone. Other boundaries are shown with dashed and dotted lines. The text 'Tribes and Their Relationship to the Management Process' is overlaid in the center of the chart.

Tribes and Their Relationship to the Management Process

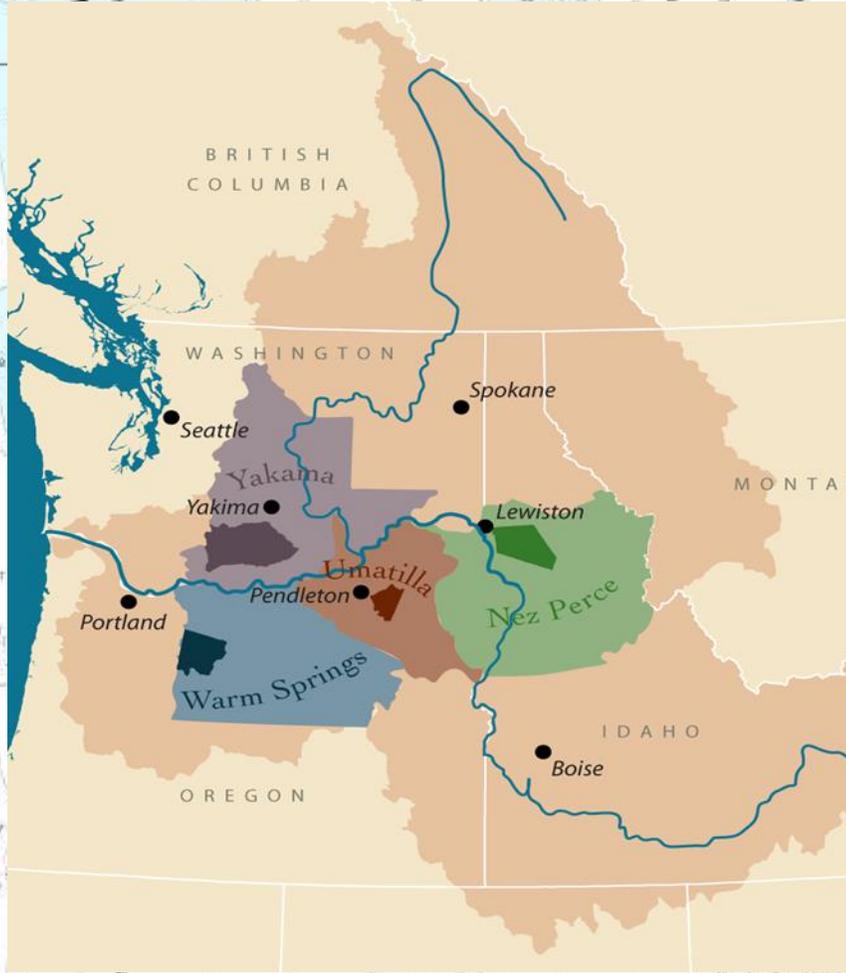
Steve Joner – Makah Fisheries Management

Columbia River Treaty Tribes

Treaties

1855

Umatilla
Nez Perce
Warm Springs
Yakama



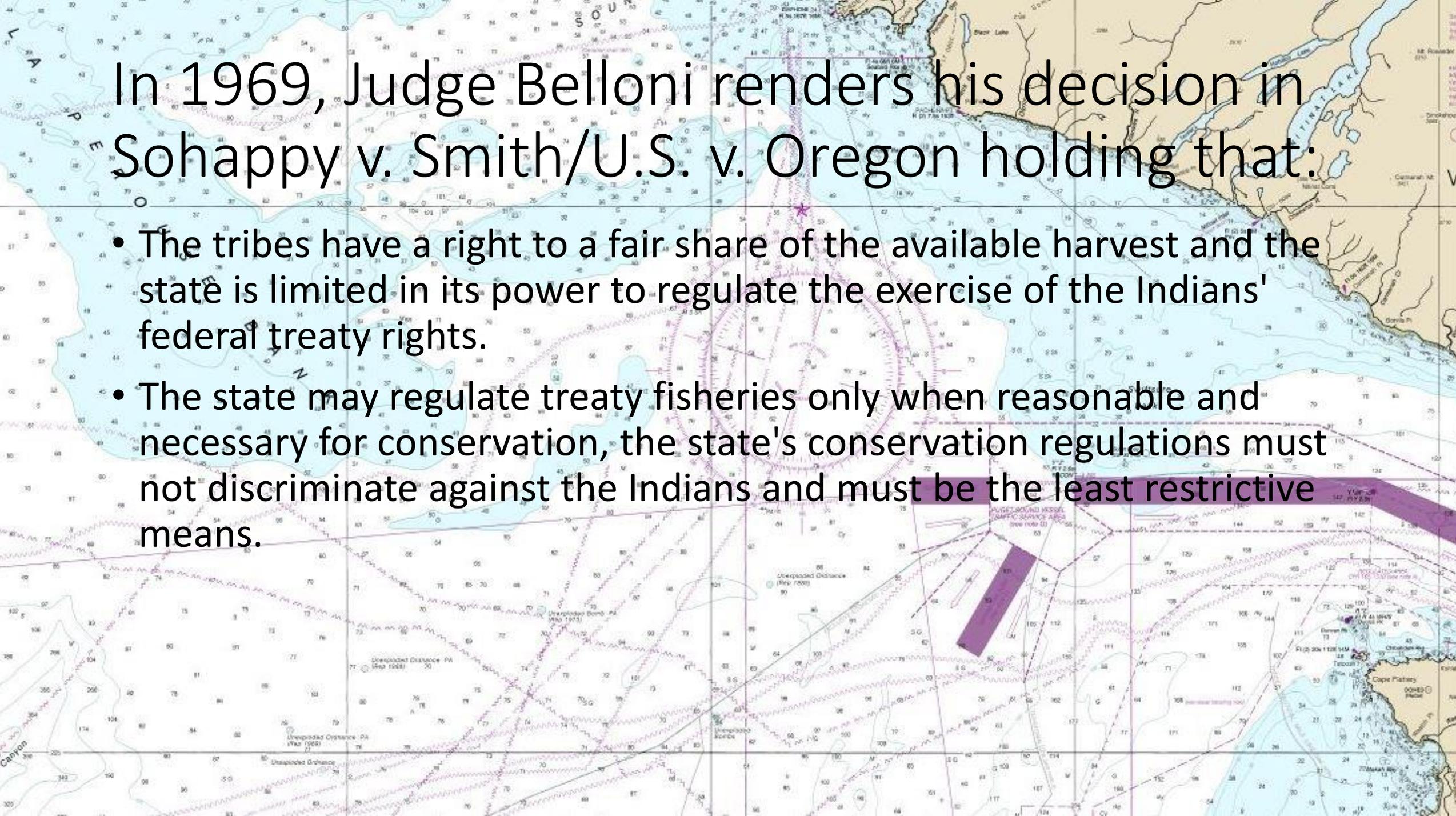
US v Oregon case area tribes

Background-Columbia River Treaties

- In 1855, the United States entered into several treaties with Indian tribes living along the Columbia River and its tributaries in what are now the states of Oregon, Washington and Idaho. A key provision of all four treaties is:
 - *"That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians; and at all other usual and accustomed stations, in common with the citizens of the United States"*

Key Rulings

- In 1968, fourteen members of the Yakama Nation file suit in federal district court in Oregon against the Oregon Fish Commission and Oregon Game Commission (Sohappy v. Smith) seeking a decree that would define their treaty fishing rights.
- The United States files U.S. v. Oregon and the tribes intervene.

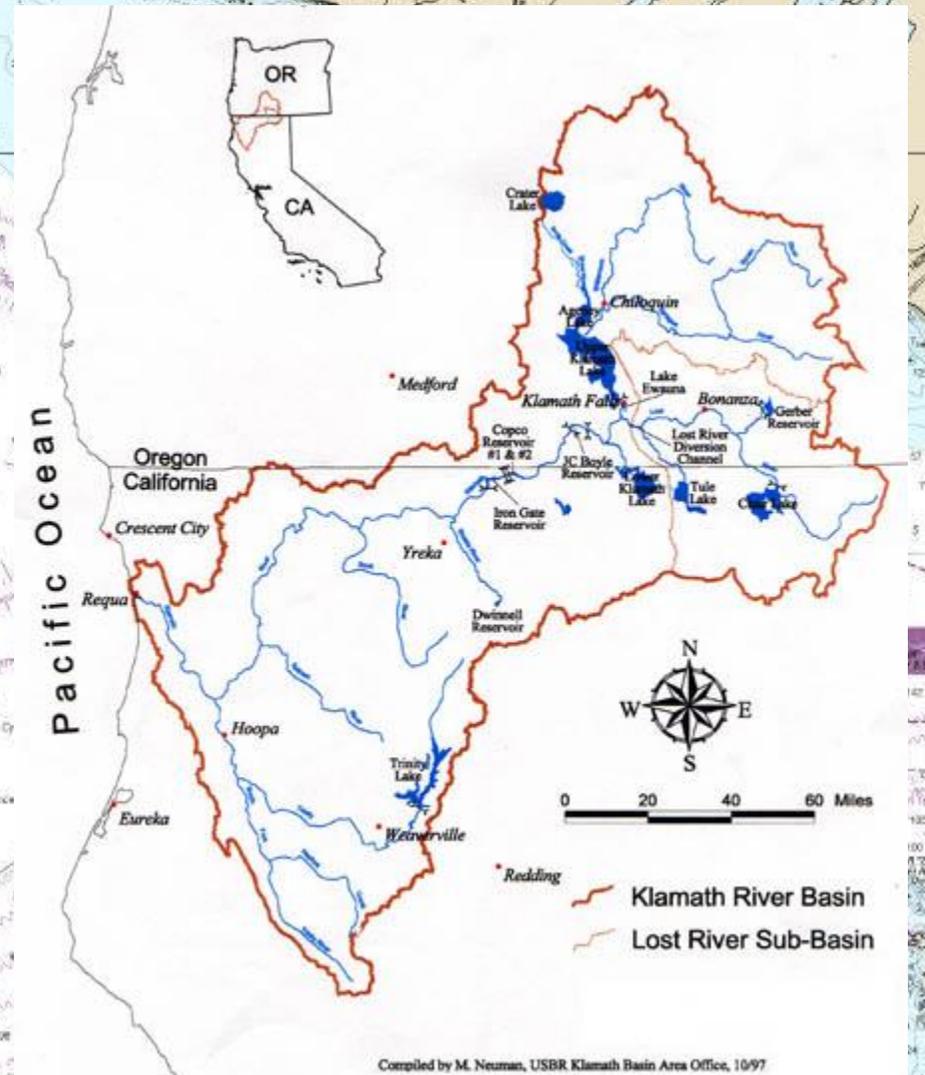
A nautical chart of a coastal area, likely the Pacific Northwest, showing depth contours, navigational markers, and geographical features. The chart is overlaid with a semi-transparent text box containing the main text and a bulleted list. The text is in a large, black, sans-serif font. The background chart includes labels for 'L A P E', 'S O U', 'DORR LAKE', 'CANTON MOUNTAIN', and 'COPE FISHERY'. There are also various depth soundings and navigational symbols.

In 1969, Judge Belloni renders his decision in *Sohappy v. Smith/U.S. v. Oregon* holding that:

- The tribes have a right to a fair share of the available harvest and the state is limited in its power to regulate the exercise of the Indians' federal treaty rights.
- The state may regulate treaty fisheries only when reasonable and necessary for conservation, the state's conservation regulations must not discriminate against the Indians and must be the least restrictive means.

Klamath River Tribes

- Reservation-based fishing rights
 - Hoopa valley
 - Yurok
- Reservations established 1855-1876
- 50% harvest entitlement established 1993





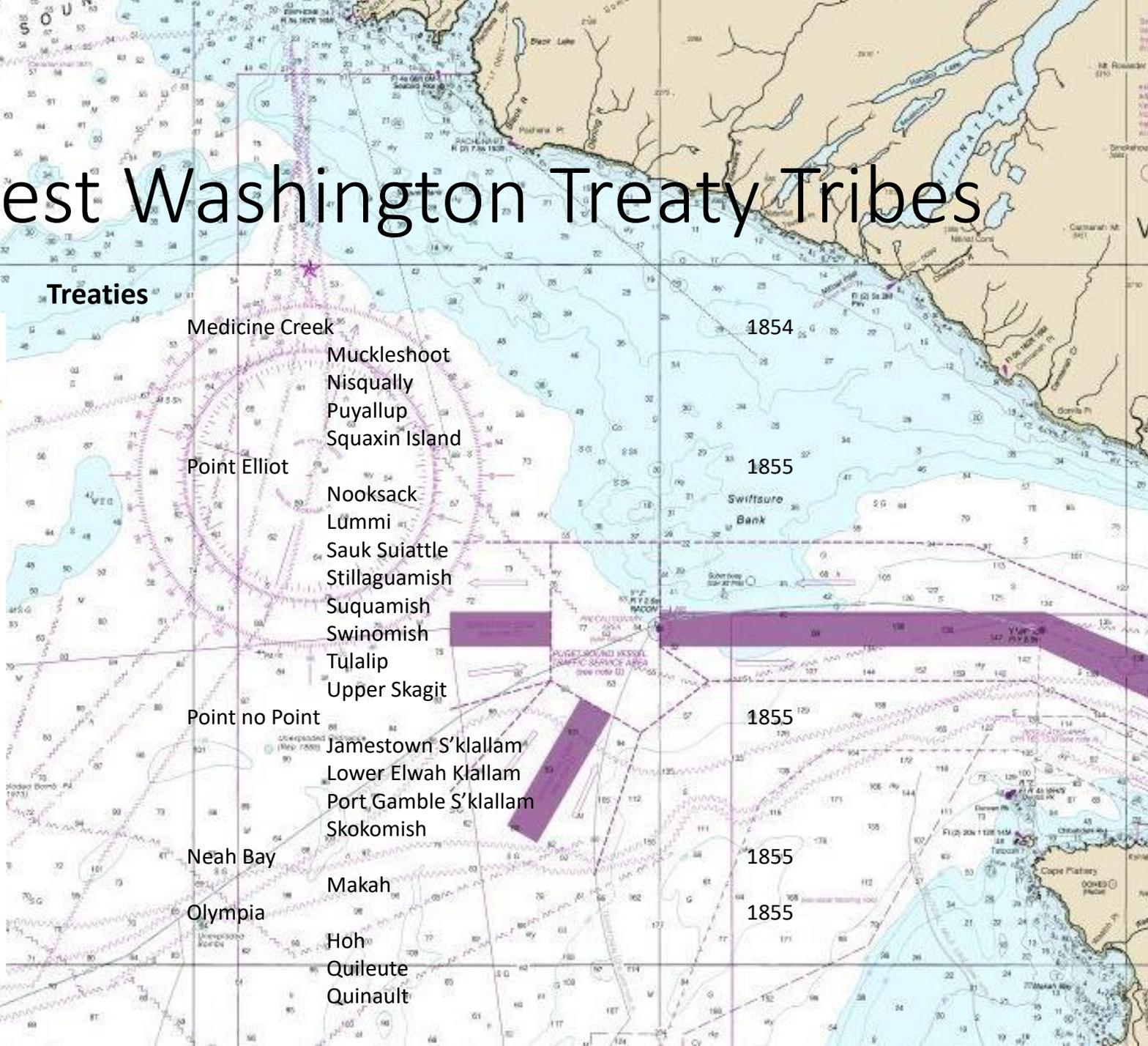
NWIFC

Northwest Washington Treaty Tribes

Treaties



US v Washington case area tribes

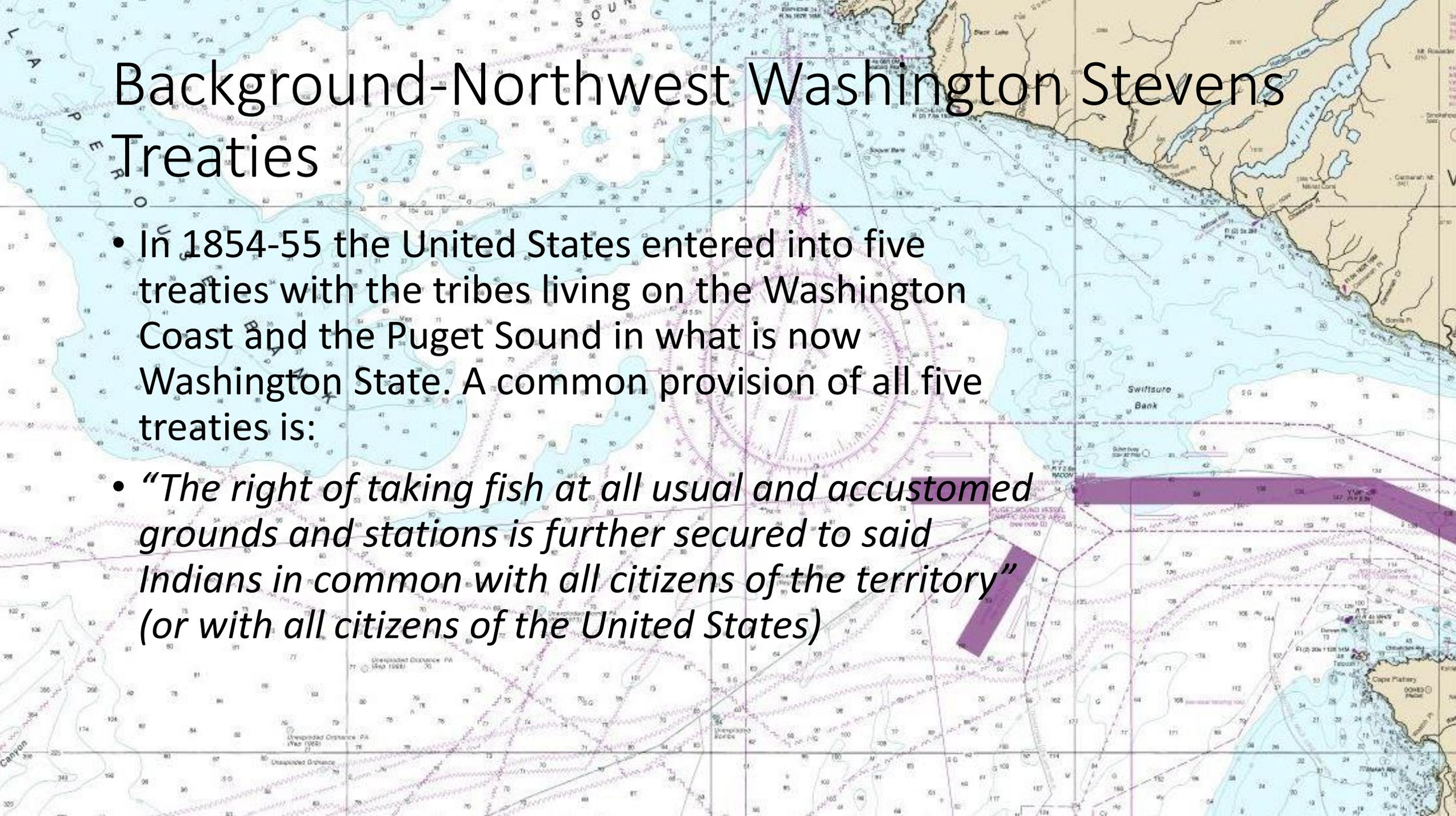


- Medicine Creek
- Muckleshoot
- Nisqually
- Puyallup
- Squaxin Island
- Point Elliot
- Nooksack
- Lummi
- Sauk Suiattle
- Stillaguamish
- Suquamish
- Swinomish
- Tulalip
- Upper Skagit
- Point no Point
- Jamestown S'klallam
- Lower Elwha Klallam
- Port Gamble S'klallam
- Skokomish
- Neah Bay
- Makah
- Olympia
- Hoh
- Quileute
- Quinault

- 1854
- 1855
- 1855
- 1855
- 1855
- 1855

Background-Northwest Washington Stevens Treaties

- In 1854-55 the United States entered into five treaties with the tribes living on the Washington Coast and the Puget Sound in what is now Washington State. A common provision of all five treaties is:
 - *“The right of taking fish at all usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the territory” (or with all citizens of the United States)*



The Treaty with the Makah Tribe

- *“The right of taking fish **and of whaling or sealing** at usual accustomed grounds and stations is further secured to said Indians in common with all citizens of the United States”*



The Sea is my Country

- Kal chote

- *“He ought to have the right to fish and to take whales where he liked. He was afraid that if he could not take halibut where he wanted, he would become poor.”*

- Tse-Kaw-Wooti

- *“He wanted the sea. That was his Country. If whales were killed and floated ashore, he wanted for his people the exclusive right of taking them...”*

- Governor Stevens

- *“He was far from wishing to stop their fisheries, he wished to send them oil kettles, and fishing apparatus.”*

U.S. v Washington – The Boldt Decision

- In the late 1950's and early 1960's, Washington state attempt to enforce its regulations on tribal fishermen, confrontations ensue and tensions run high. There are state criminal court proceedings against individual tribal members. Tribal attorneys and U.S. Department of Interior attorneys assist in defense efforts in state courts.
- Puyallup I – 1968 & Puyallup II – 1973
- In 1970 the United States and several of the western Washington Indian tribes filed complaint against the state of Washington.

Key Rulings

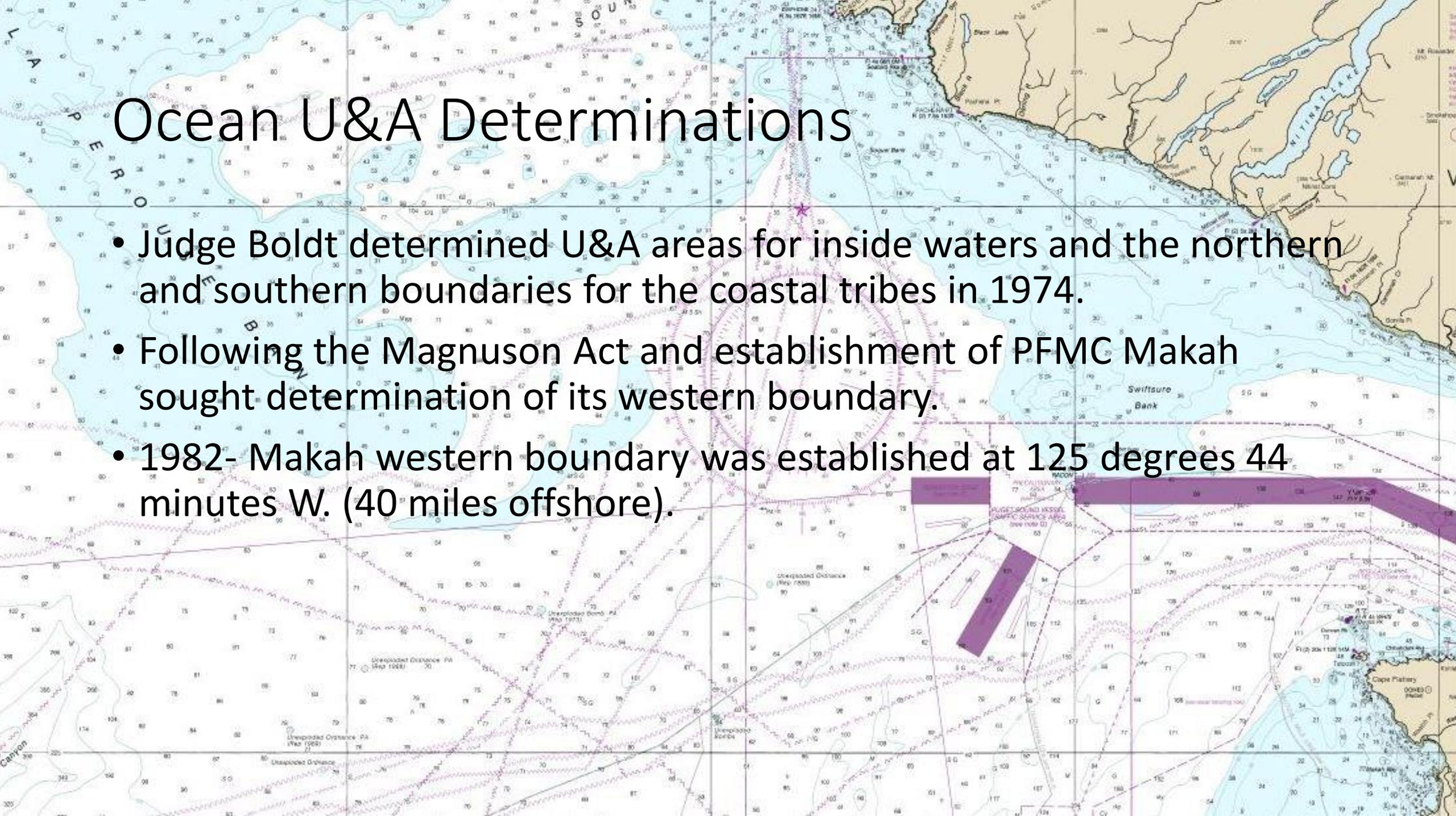
- The treaties were not a grant of rights to the Indians but a grant of rights from them, and a reservation of those not granted.
- Tribes are entitled to 50% of the harvestable surplus passing through the respective tribal U&A's
- State (and later Federal) regulation of tribal fisheries must be for conservation necessity only.
- Tribes and the states share co-management

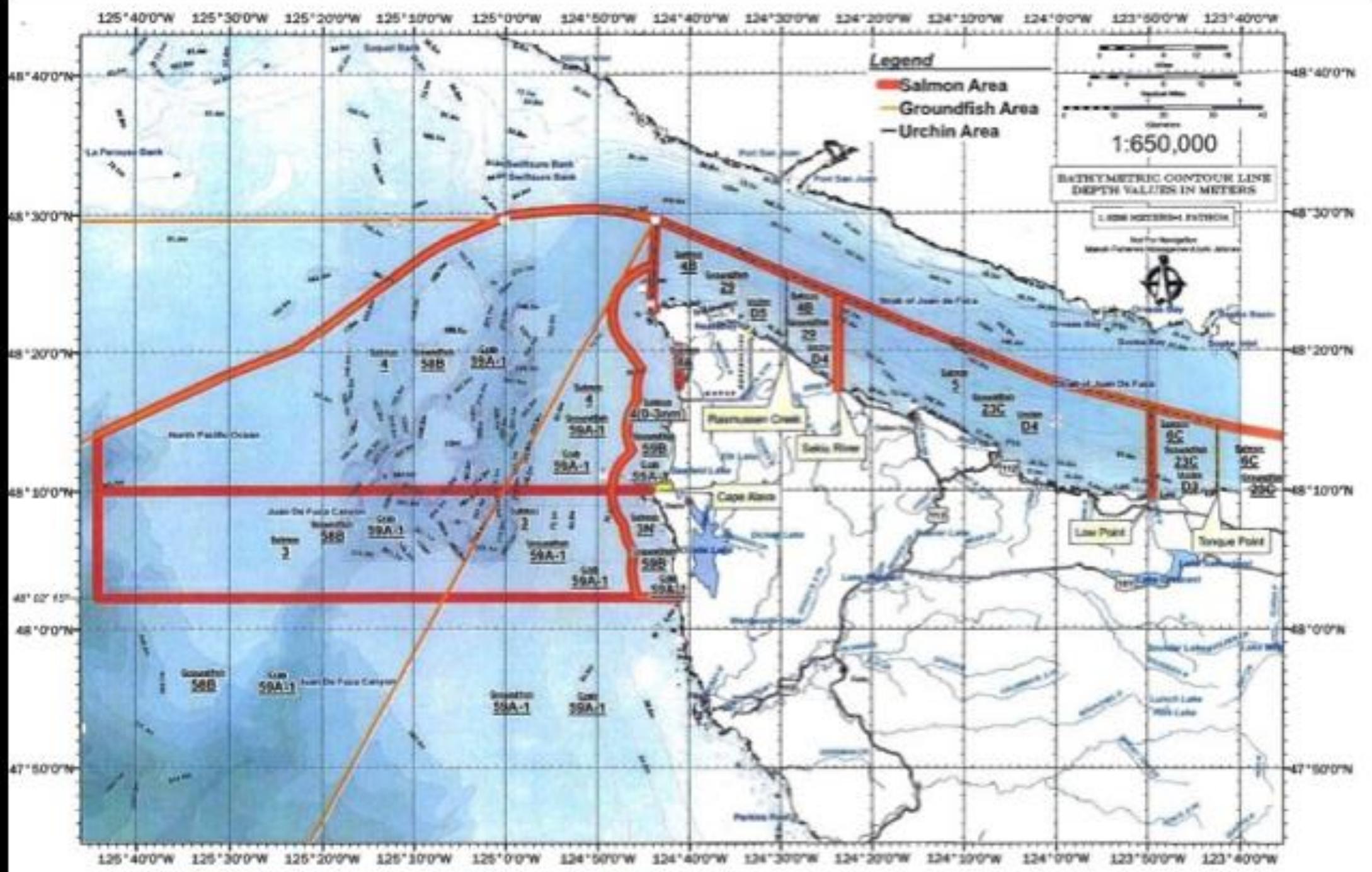
Key Rulings

- Self-regulating tribes are required to have:
 - competent and responsible leadership
 - well organized tribal government
 - enforcement of tribal fishing regulations
 - well qualified experts in fisheries sciences and management
 - an officially approved tribal membership role
 - photo identification of tribal fishermen
- The court further established procedures for filing fishing regulations, and established a Fisheries Advisory Board
- The court determined usual and accustomed fishing areas for each tribe

Ocean U&A Determinations

- Judge Boldt determined U&A areas for inside waters and the northern and southern boundaries for the coastal tribes in 1974.
- Following the Magnuson Act and establishment of PFMC Makah sought determination of its western boundary.
- 1982- Makah western boundary was established at 125 degrees 44 minutes W. (40 miles offshore).



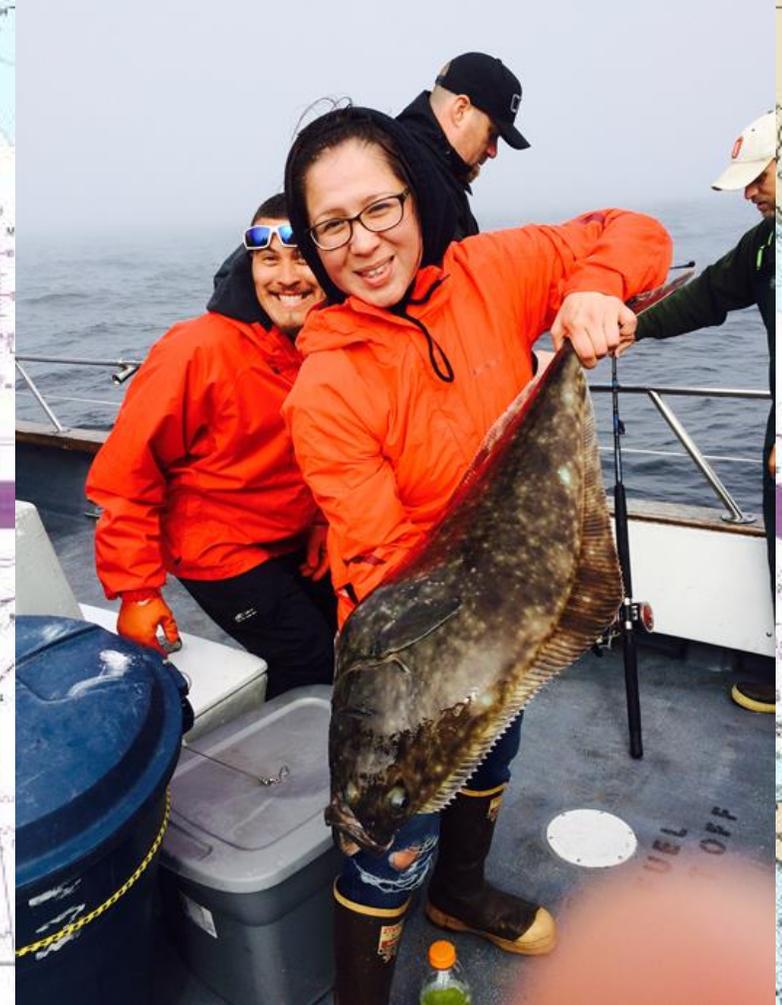


Post-trial Period

- Fish wars took place in the case area as individuals came to grips with the courts rulings
- Judge Boldt at times was the enforcer of his own rulings
- Fisheries Advisory Board active through early 1980's
- Judge Boldt's Decision in US v Washington was affirmed by the 9th circuit, and upheld by the US Supreme Court in 1979, with slight modifications

US v Washington Sub-proceedings

- Size limit in the Makah Troll fishery
- Makah Bay net seizures
- Halibut
- Shellfish
- Whiting

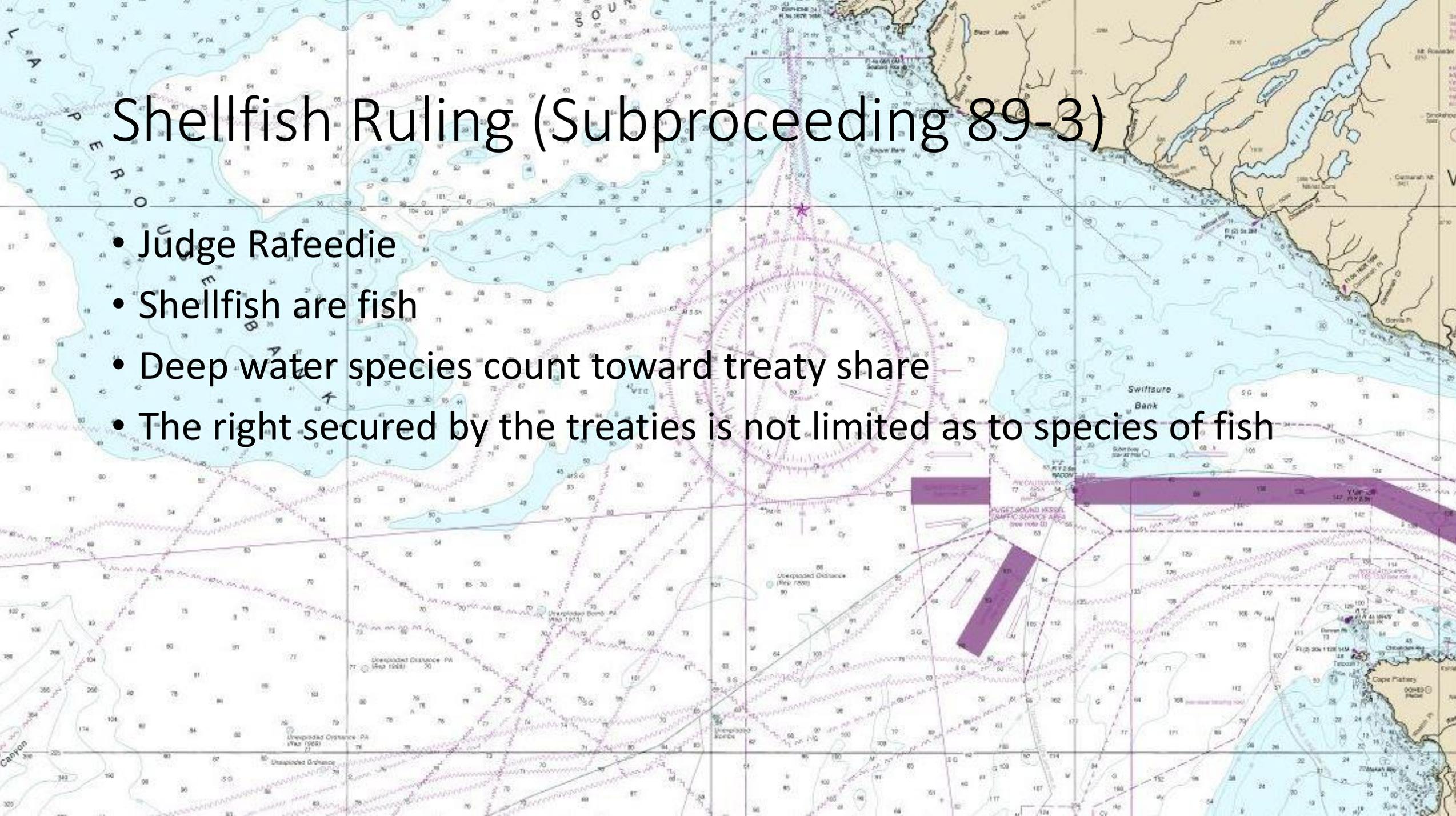


Halibut Ruling (Subproceeding 92-1)

- Makah filed the case in 1985 (Makah v Baldrige)
- Area 2A-1 established, allocation to tribal fisheries in the late 1980's
- December 1993 Judge Rothstein rules on five motions
 - Treaty tribes entitlement 50% of harvestable surplus in U&A and must be based on conservation necessity principle
 - Total of 13 tribes with treaty rights to halibut

Shellfish Ruling (Subproceeding 89-3)

- Judge Rafeedie
- Shellfish are fish
- Deep water species count toward treaty share
- The right secured by the treaties is not limited as to species of fish

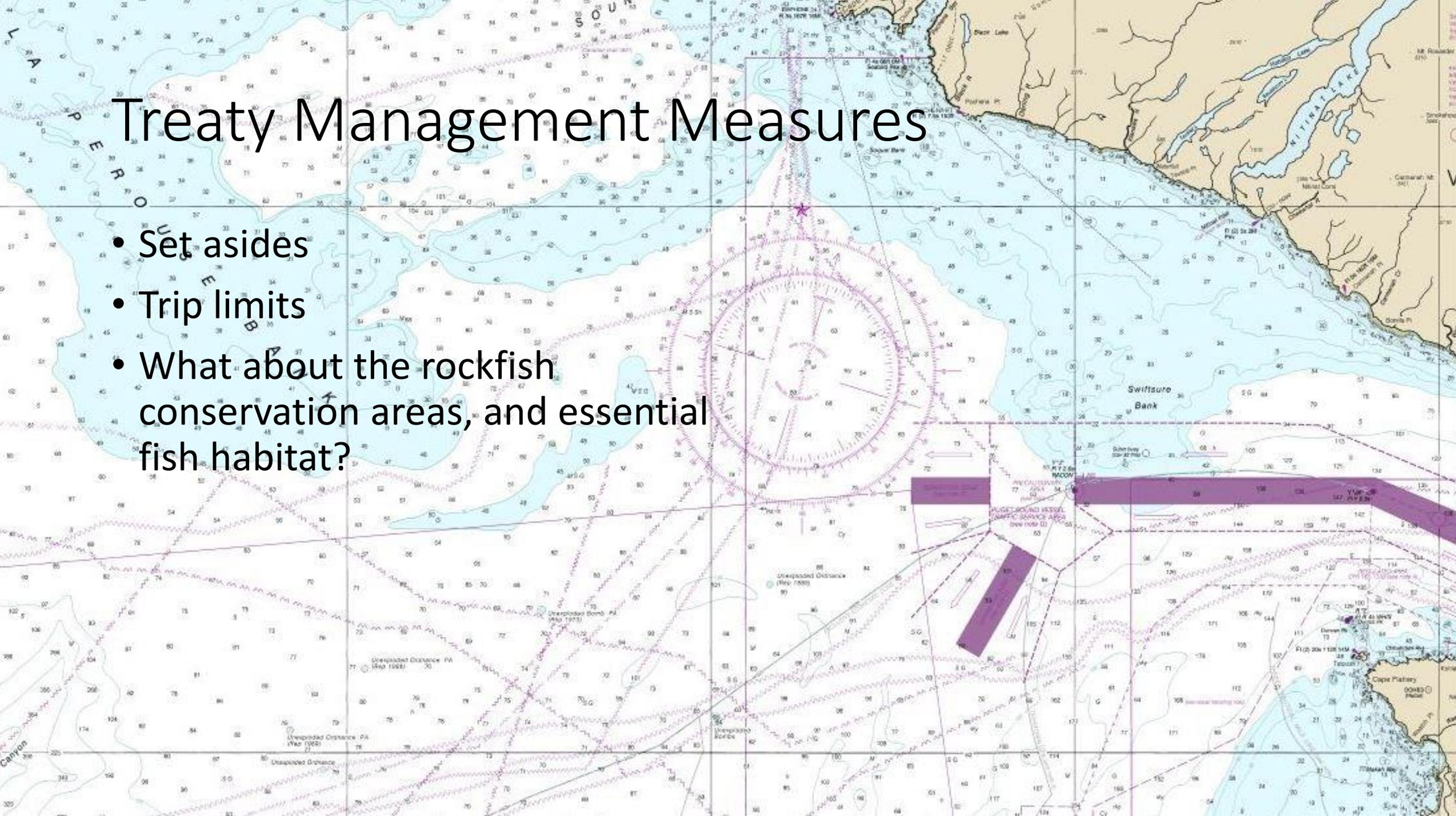


Other Groundfish Species

- Sablefish
 - Halibut allocation principle applied in 1994-95
 - Treaty share equals 10% of Pacific coast north OY
- Whiting
 - Makah whiting fishery began in 1996
 - Annual allocations in 1996 through 1998
 - Sliding scale allocation began in 1999
 - Current allocation is 17.5%
 - Three trips to the 9th Circuit Court

Treaty Management Measures

- Set asides
- Trip limits
- What about the rockfish conservation areas, and essential fish habitat?



Federal Groundfish Regulations

- § 660.50 Pacific Coast treaty Indian fisheries.
- (a) Pacific Coast treaty Indian tribes have treaty rights. Pacific Coast treaty Indian tribes have treaty rights to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. In 1994, the United States formally recognized that the four Washington coastal treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) have treaty rights to fish for groundfish in the Pacific Ocean, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes U&A fishing areas.
- (1) Tribal allocations, set-asides, and regulations. An allocation, set-aside or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications.
- (2) Co-management. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

Halibut Regulations

PACIFIC HALIBUT FISHERY REGULATIONS 2016

22. Fishing by United States Treaty Indian Tribes

(1) Halibut fishing in Subarea 2A-1 by members of United States treaty Indian tribes located in the

State of Washington shall be regulated under regulations promulgated by NMFS and published in the Federal Register

(3) Section 13 (size limits), section 14 (careful release of halibut), section 16 (logs), section 17 (receipt and possession of halibut) and section 19 (fishing gear), except paragraphs (7) and (8) of section 19, apply to commercial fishing for halibut in Subarea 2A-1 by the treaty Indian tribes.

(4) Regulations in paragraph (3) of this section that apply to State fish tickets apply to Tribal tickets that are authorized by WDFW.

(5) Section 4 (Licensing Vessels for Area 2A) does not apply to commercial fishing for halibut in Subarea 2A-1 by treaty Indian tribes.

2017-2018 Tribal Management Measures

Black Rockfish - The 2017 and 2018 tribal harvest guidelines will be set at 30,000 pounds for the management area between the US/Canada border and Cape Alava, and 10,000 pounds for the management area located between Destruction Island and Leadbetter Point. No tribal harvest restrictions are proposed for the management area between Cape Alava and Destruction Island.

Sablefish - The 2017 and 2018 tribal set asides for sablefish will be set at 10 percent of the Monterey through Vancouver area ACL minus approximately 1.5 percent to account for estimated discard mortality. Allocations among tribes and among gear types, if any, will be determined by the tribes.

Pacific cod - The tribes will be subject to a 500 mt harvest guideline for 2017 and 2018.

For all other tribal groundfish fisheries the following limits will apply:

Thornyheads - Tribal fisheries will be restricted to 50 mt for shortspine thornyheads and 30 mt for longspine thornyheads.

Canary Rockfish - Tribal fisheries will be restricted to 50 mt per year.

Other Minor Nearshore, Shelf and Slope Rockfish - Tribal fisheries will be restricted to a 300 pound per trip limit for each species group, or the Limited Entry trip limits if they are less restrictive than the 300 pound per trip limit, except that redstripe rockfish will be restricted to 800 pounds per trip.

Yelloweye Rockfish - The tribes will continue developing depth, area, and time restrictions in their directed Pacific halibut fishery to minimize impacts on yelloweye rockfish. Tribal fisheries will be restricted to 100 pounds per trip.

Lingcod - Tribal fisheries will be subject to a 250 mt harvest guideline for 2017 and 2018.

Spiny Dogfish - Tribal fisheries for dogfish in 2017 and 2018 would be restricted to 275 mt each year. Targeting of dogfish by treaty fishermen in 2017 and 2018 would be conducted while staying within current estimates of impacts on overfished species.

Full Retention - The tribes will require full retention of all overfished rockfish species as well as all other marketable rockfishes during treaty fisheries.



Makah Trawl Fisheries for 2017 and 2018

Midwater Trawl Fishery - Treaty midwater trawl fishermen will be restricted to a total yellowtail rockfish catch of the entire fleet of 1,000 mt. Their landings of widow rockfish must not exceed 20 percent of the cumulative poundage of yellowtail rockfish landed by a given vessel for the year for a total catch of 200 mt. The tribe may adjust the cumulative limit for any two-month period to minimize the incidental catch of canary and widow rockfish.

Bottom Trawl Fishery - Treaty fishermen using bottom trawl gear will be managed to achieve, but not exceed, the set-asides requested for Pacific cod, shortspine and longspine thornyhead, petrale sole, Dover sole, English sole, rex sole, arrowtooth flounder, and Other Flatfish. These are 500 mt for Pacific cod, 50 mt for shortspine thornyhead, 30 mt for longspine thornyhead, 220 mt for petrale sole, 1,497 mt for Dover sole, 200 mt for English sole, 2,041 mt for arrowtooth flounder, and 60 mt for Other Flatfish. The limits available to individual fishermen may be adjusted in season to stay within the overall harvest target as well as estimated impacts to overfished species. Fishermen will be restricted to small footrope (≤ 8 inches) trawl gear. Exploration of the use of selective flatfish trawl gear may be conducted.

Observer Program - The Makah Tribe has an observer program in place to monitor and enforce the limits proposed above.



Tribal Fisheries Management

- The Makah Tribe has regulated its fishermen since 1937 and has promulgated written regulations since 1952
- Makah Fisheries Management Program (MFM) was established in 1975
- MFM manages fisheries for salmon, halibut, shellfish, groundfish, and marine mammals with a total of over 25 separate fisheries



Makah Trawl Fisheries and Bycatch Reduction

- **Whiting –**
 - Fishing vessels are required to use salmon excluders to minimize salmon bycatch.
 - Active bycatch triggers in place so if notable bycatch occurs the observers or processor are required to notify Makah Fisheries Management.
 - All landings are observed by federal or tribal observers.
- **Bottom Trawl**
 - Small footrope trawl gear is the only legal gear type for Makah fishermen.
 - Reduces trawlable areas, avoidance of rockpiles.
- **Midwater Yellowtail Fishery**
 - Maximum tow duration.

Marine Mammals

- Mammal Management

- The Makah Tribe conducts studies on the population of whales within the region.
- Individual whales can be identified by the barnacle patterns on their backs, genetic samples are used to distinguish lineage.
- Two distinct populations of grey whales reside near Neah Bay.

- Whale Hunting

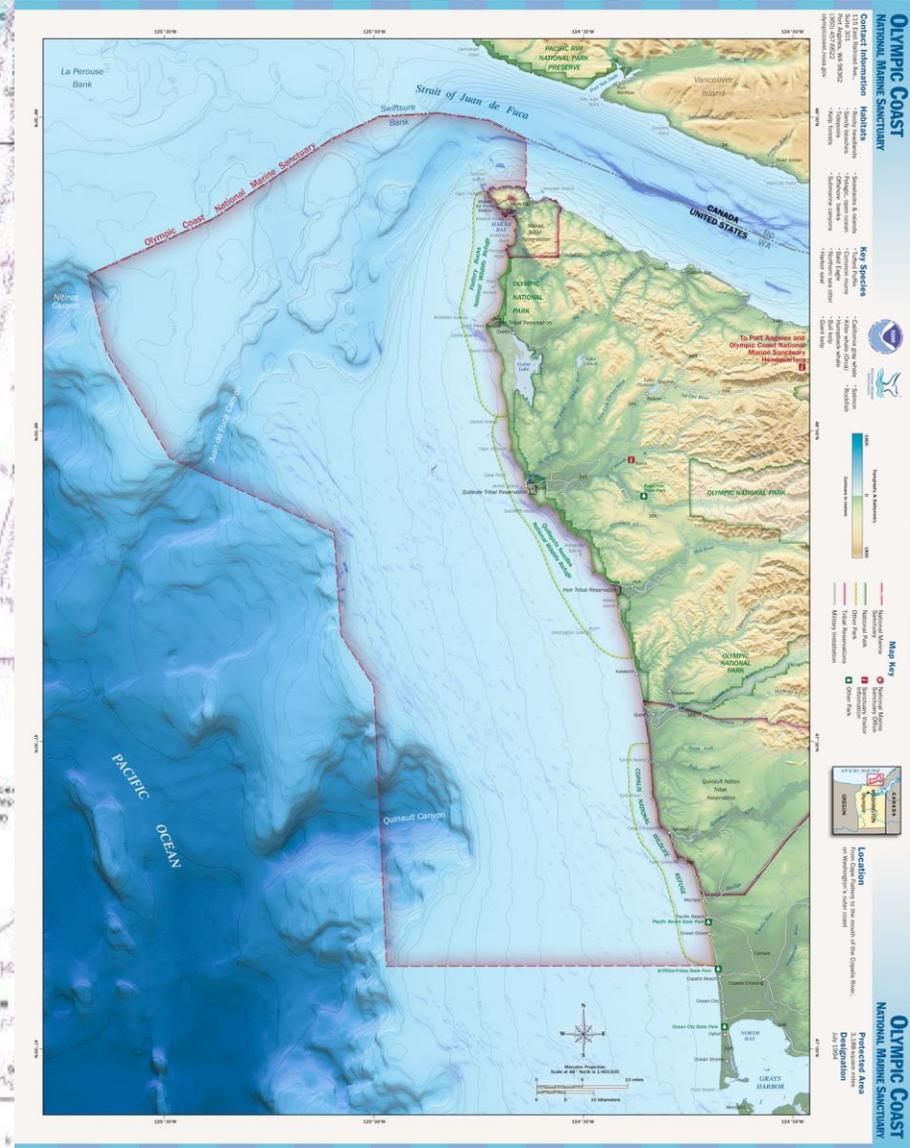
- Tribal members wish to continue the tradition of whaling while making sure that the species taken are in healthy abundance.
- Before a whale is taken the whale is identified so that tribal hunters have a low likelihood of affecting a weak stock.



Biopsy = A small piece of skin and blubber

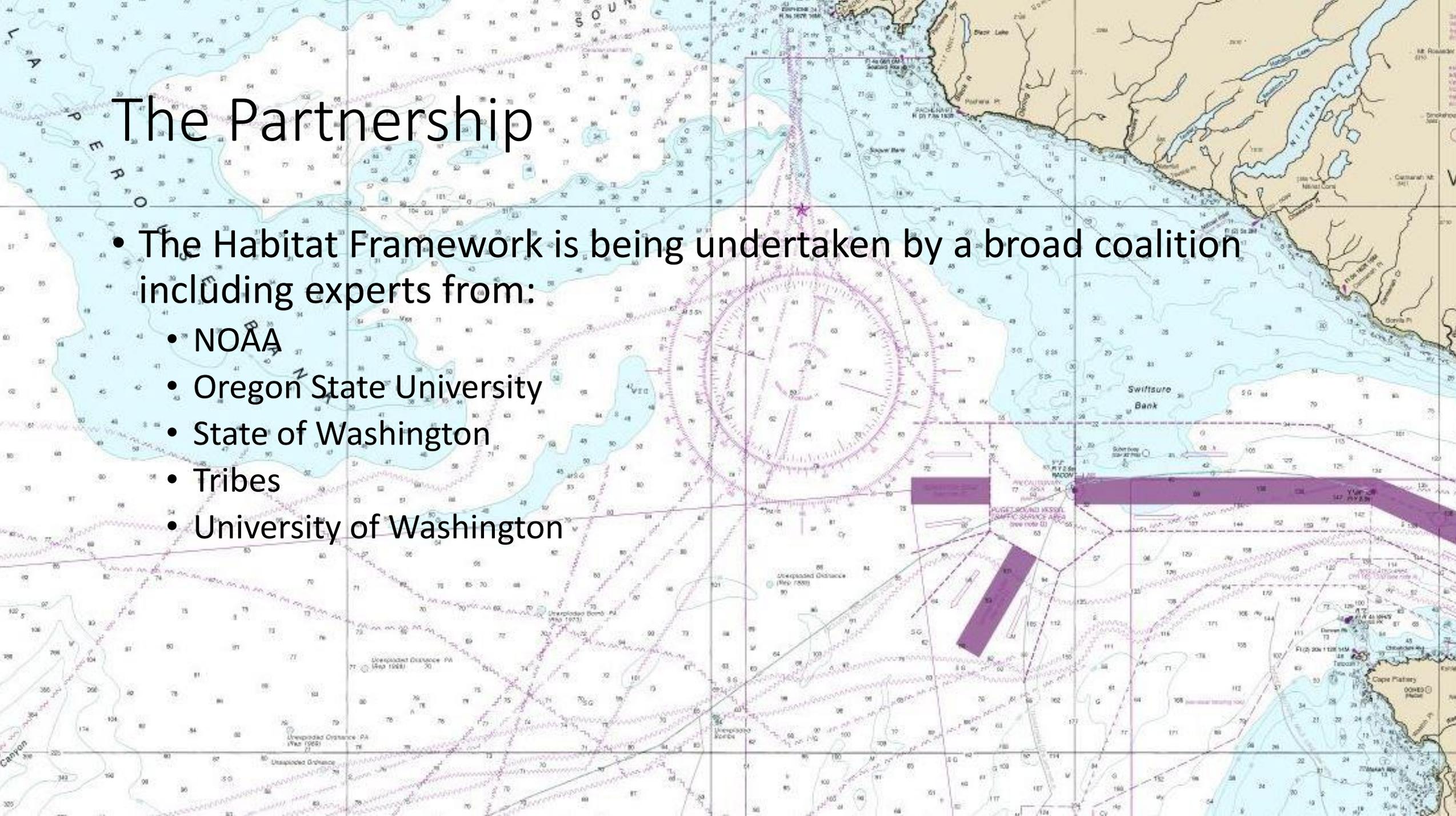
Olympic Coast National Marine Sanctuary and the Tribes

- Intergovernmental Policy Council established in 2007
- Coastal tribes, Washington State and NOAA
- Habitat Framework



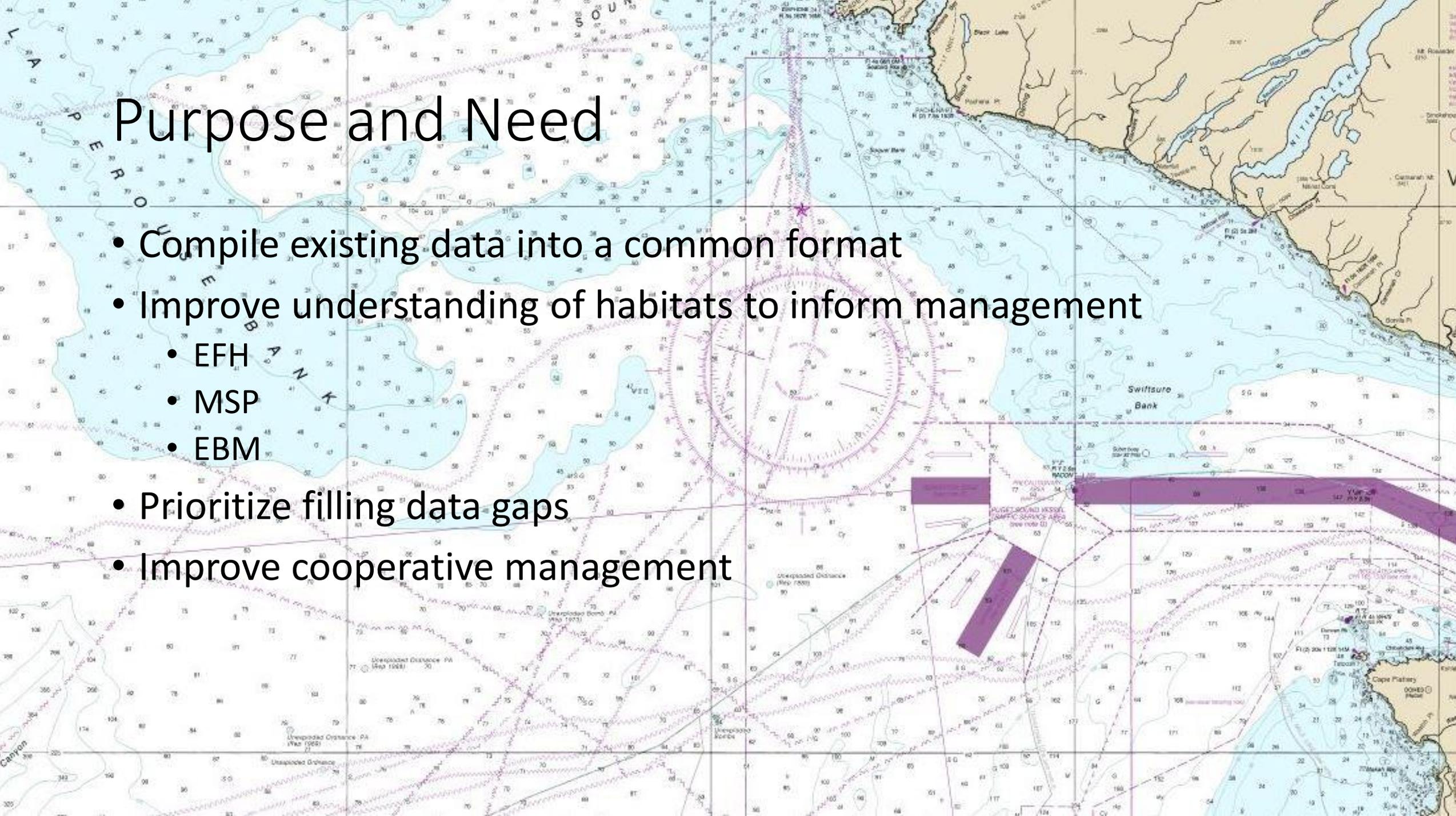
The Partnership

- The Habitat Framework is being undertaken by a broad coalition including experts from:
 - NOAA
 - Oregon State University
 - State of Washington
 - Tribes
 - University of Washington



Purpose and Need

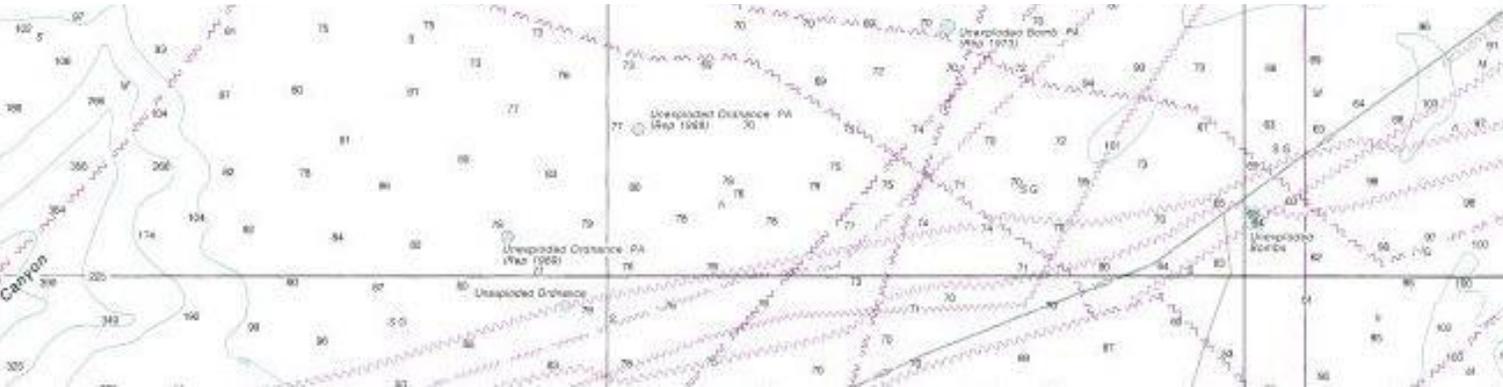
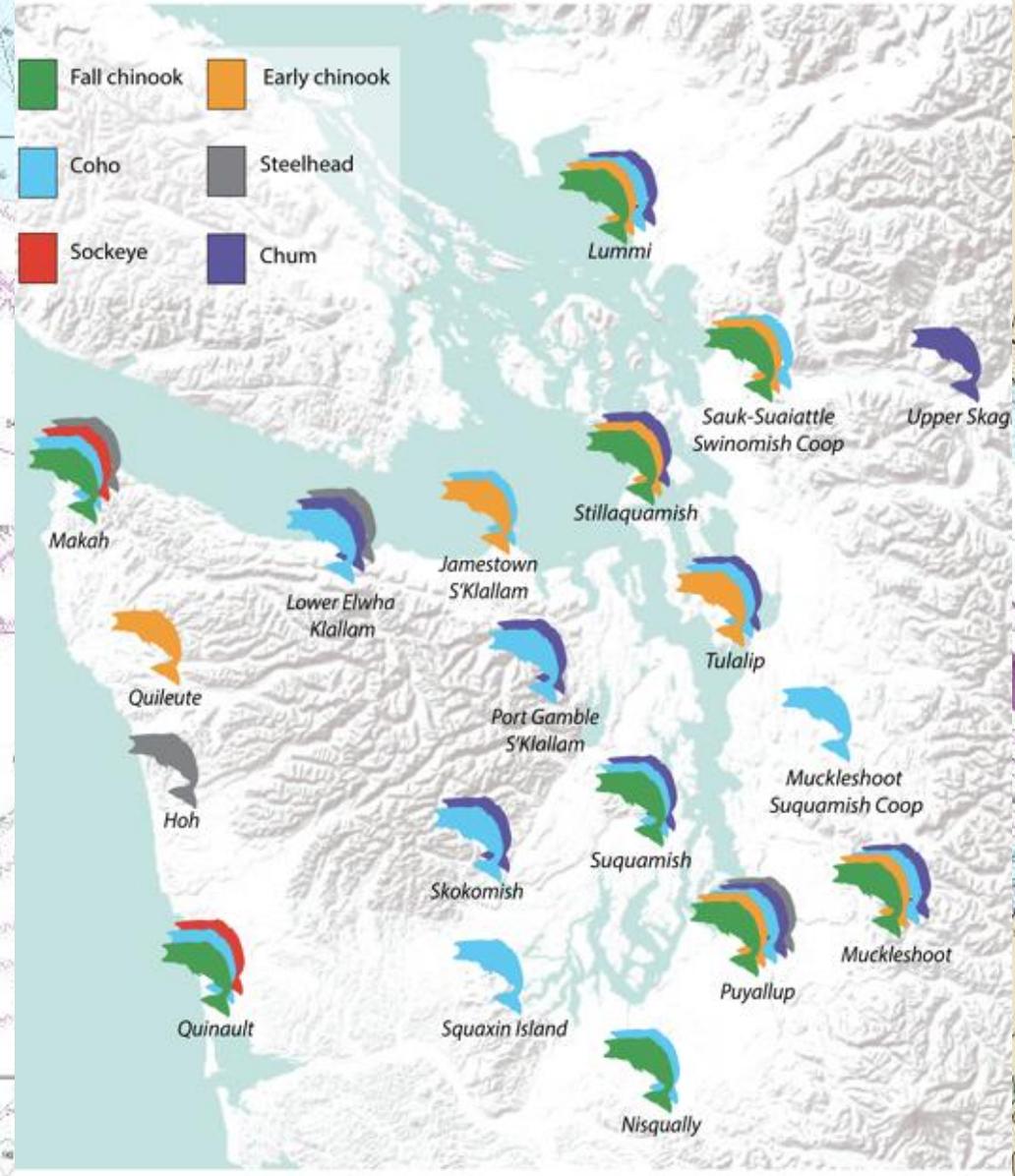
- Compile existing data into a common format
- Improve understanding of habitats to inform management
 - EFH
 - MSP
 - EBM
- Prioritize filling data gaps
- Improve cooperative management



Tribal Salmon Hatcheries

2015 Tribal Hatchery Releases

Tribes	Fall chinook	Early Chinook	Coho	Chum	Sockeye	Steelhead	Total Fish
Lummi	796,265	343,240	2,452,651	300,000			3,892,156
Upper Skagit				323,655			323,655
Sauk-Suiattle/Swinomish Coop	158,000	109,000	100,000				367,000
Stillaguamish	36,450	238,857		300,000			575,307
Tulalip		2,481,804	1,449,033	6,500,000			10,430,837
Muckleshoot	1,105,000	382,686	984,922	2,796,154			5,268,762
Suquamish	2,468,354		279,517	2,209,000			4,956,871
Muckleshoot/Suquamish Coop			436,057				436,057
Puyallup	397,003	216,800	104,910	2,335,412		31,219	3,085,344
Nisqually	3,843,652		286,736				4,130,388
Squaxin Island			668,900				668,900
Skokomish			199,552	2,771,203			2,970,755
Port Gamble S'Klallam			394,424	1,381,200			1,775,624
Jamestown S'Klallam		180,000	500,000				680,000
Lower Elwha Klallam			289,136	49,122		231,549	569,807
Makah	426,906		42,200		222,427	53,254	744,787
Hoh						100,000	100,000
Quileute		148,755					148,755
Quinault	912,954		615,841		304,602	383,700	2,217,097
TOTAL	10,144,584	4,101,142	8,803,879	18,965,746	527,029	799,722	43,342,102



North of Falcon

- You don't want to go there!

