

*For Immediate Release—October 18, 2019*

## **Washington Department of Fish and Wildlife Proposing Unlawful Expansion of Hunting Areas for Some Tribes in Unwritten Side Agreements**

### ***Department Determined in 2015 Those Tribes Had No Evidence of Treaty-Based Hunting Rights in the Expanded Areas***

The Washington State Department of Fish and Wildlife is considering entering into unwritten agreements granting expanded hunting areas for the Jamestown S’Klallam Tribe, the Port Gamble S’Klallam Tribe, and the Lower Elwha Klallam Tribe (the “Klallam Tribes”). The tacit agreements would allow the Klallam Tribes to hunt without a state license in certain Game Management Units on the Olympic Peninsula even though WDFW determined in 2015 that those tribes had presented no evidence of treaty hunting rights in the GMUs. WDFW is proceeding with this approach despite strong objections by the adversely affected tribes. It is apparently planning to take similar actions in other areas of the state.

WDFW has been down this road before, and it did not end well.

In 2013, WDFW secretly entered into two written agreements that allowed the Klallam Tribes to hunt in the Sol Duc, Dickey, and Pysht GMUs. The Department did not provide advance notice to sport hunters, the public, or the tribes native to those areas, and with treaty hunting rights in them—the Quileute Tribe, Hoh Tribe, and the Quinault Indian Nation. Those tribes all signed the same treaty, which allows them to keep hunting in their aboriginal areas between Cape Alava and Westport, extending east to the Olympic Mountains. The Department did not inform the affected tribes about the secret agreements with the Klallam Tribes until *after* those tribes independently discovered the agreements.

The earlier agreements violated Washington Supreme Court precedent. Under *State v. Buchanan* (1999), a full review of evidence and proof of treaty rights must be established before such hunting can be permitted. Instead, WDFW’s agreements with the Klallam Tribes in 2013 only required a promise to submit their evidence to the Department *months after* the agreements became effective.

After discovering the secret agreements, the Quileute Tribe and numerous other tribes, sports hunters, and other concerned citizens called and wrote to the Department expressing their outrage. Due in part to this public backlash, the Department finally required the Klallam Tribes to submit evidence. The Department also allowed affected tribes to review and respond to the Klallam Tribes’ claims. However, before it reviewed the evidence or made its determination regarding the Klallam Tribes’ rights in the area, WDFW allowed the Klallam Tribes to deplete game in the three GMUs, without requiring them to help manage game populations or address conservation concerns.

In 2015, the Department of Fish and Wildlife determined that the evidence did not support Klallams’ claim for hunting rights in these GMUs. Specifically, the Department’s own expert anthropologist determined that “none of the information [provided by the S’Klallam] provides evidence of S’Klallam aboriginal hunting in those GMU locations.” This conclusion was reiterated several times in two written reports the Department sent to tribes. Two other expert anthropologists for the Quileute and Quinault tribes reached the same conclusion. In the face of this evidence, the Department finally withdrew its approval for Klallam Tribes to hunt there.

Late last month, however, the Department shocked representatives from the Quileute Tribe, Hoh Tribe, the Quinault Indian Nation, and the Skokomish Indian Tribe by announcing in a meeting that the Department is now considering re-entering into those agreements. The tribes also learned that this time, WDFW's agreements will be unwritten. The Department uses the term "enforcement discretion" agreements to refer to these tacit dealings.

"We absolutely could not believe it," Tribal Chairman Doug Woodruff said. "After all the outrage last time, after putting us through two years of an exhaustive and expensive process where WDFW itself found there was no evidence supporting this, why would they do this again? We told the Department that this was unacceptable. These unwritten side deals are insulting to our Tribe and the public, and show a complete lack of respect and disregard for the co-management efforts that have been undertaken on the west side of the Peninsula."

"There are over 1,200 members in the Klallam Tribes, so we are talking potentially hundreds of additional hunters coming into our area," Woodruff added. "And WDFW has made no effort to assess the impacts this potential influx of new hunters will have on the deer and elk populations." Chairman Woodruff stated that if the Department of Fish and Wildlife goes through with its plans, it will exacerbate problems already plaguing the deer and elk herds.

Fawn Sharp, President of the Quinault Indian Nation, was surprised at the Department's rationale for its proposed actions. "WDFW said that it is revisiting the evidentiary criteria that it applies to tribal claims of hunting rights outside their aboriginal areas. But WDFW's own expert concluded that 'no evidence' supports the S'Klallam Tribes' claims. And the S'Klallam Tribes haven't submitted any new evidence. So no matter *what* new criteria WDFW comes up with, 'no evidence' is not going to meet that standard."

Vice Chairman Melvinjohn Ashue of the Hoh Tribe added, "I hope WDFW understands that some people depend on hunting to put food on the table. That's certainly true for the tribal members of the three tribes who *do* have treaty rights in these areas—Hoh, Quileute, and Quinault. I'm shocked the state would allow other tribes that do not have treaty rights in our area to take that source of sustenance away from us."

"The Department of Fish and Wildlife has not specified which other tribes will have expanded hunting under these new unwritten agreements," said Guy Miller, Chairman of the Skokomish Tribe. "The S'Klallam Tribes have published regulations allowing their hunters into our area too, and now we have no idea if the Department plans to cite them. So we are extremely concerned about the lack of transparency and the potential impact on the game, and on all of us, that these side deals could have."

The Quileute Tribe, Hoh Tribe, Quinault Indian Nation, and Skokomish Tribe plan to do everything they can to protect their rights and the game resource and the Tribes urge the public to do the same by letting the Department of Fish and Wildlife know their concerns.