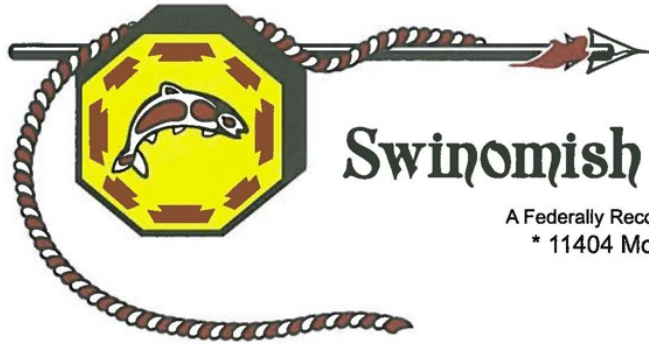




Main Office: 360.466.3163
Facsimile: 360.466.5309

Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476
* 11404 Moorage Way * La Conner, Washington 98257 *

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Contact: Amy Trainer, atrain@swinomish.nsn.us

Swinomish and Squaxin Island Tribes File Lawsuit Challenging Recission of ESA Harm Rule

The Tribes seek to maintain key protections for habitat that ESA-listed Chinook Salmon and endangered Southern Resident Killer Whales need to recover

LaConner, WA — Today the Swinomish Indian Tribal Community and Squaxin Island Tribe filed a lawsuit in the U.S. District Court for Western Washington challenging the final rule of the Departments of the Interior and Commerce to fully rescind the regulatory definition of the term “harm” under the Endangered Species Act (“ESA”) based on the agencies’ new position that the term is legally invalid despite 50 years of application. This new rule purports to make it legal to kill and injure ESA-listed species by degrading and destroying their habitat, and as a result would in many cases remove requirements to perform mitigation for such adverse habitat impacts.

“Our federal trustees have proposed a tragic and radical policy reversal that will cause devastating impacts to Swinomish’s cultural lifeways, economic interests, and the Tribe’s fish guaranteed by the Treaty of Point Elliott. We cannot save the ESA-listed Chinook salmon that are a pillar of our Treaty rights and our cultural lifeways when the habitat they need to spawn, rear and grow is under attack,” said **Swinomish Tribal Chairman Steve Edwards**. “This new rule is anti-science and will result in fewer salmon to feed our families, cause drastic setbacks in our efforts to recover ESA-listed salmon, starve Orcas, and ultimately impose serious injury to the Swinomish Tribal Community members,” said Chairman Edwards.

The Swinomish Tribe submitted 20,000 pages of scientific technical reports, including 318 peer-reviewed studies, with its more than 30-page comment letter in May 2025 on the draft rule proposal. This best available technical information overwhelmingly showed that the consensus of the scientific community is that habitat degradation and destruction is the leading cause of species loss, and that species recovery is only possible through habitat protection and restoration. The rule recission disregards all of this.

“We submitted thousands of pages of best science that show how unjustified it is to suddenly remove key regulations that protect the habitats that ESA-listed salmon need to recover. This rule will worsen salmon habitat conditions and without question that will reduce salmon stocks. Because salmon is both

food and spiritual nourishment for Swinomish Community members, I fear for the health of our people and our cultural lifeways,” said **Swinomish Senator and Fisheries Manager Tandy Wilbur**.

“As descendants of the maritime people who have fished along the shores of the southern inlets of the Salish Sea for thousands of years, the Squaxin people know that habitat protection and restoration is essential to species recovery. We are invested in consistent and robust enforcement of the Endangered Species Act, which must include protection of habitat in order to effectively safeguard Treaty resources such as salmon, instream flows, and water quality,” said Joe Peters, Squaxin Island Tribe Senior Natural Resources Policy Representative, Harvest Manager, and Tribal Member.

“We are the People of the Salmon, and these fish are integral to the Tribe’s sustenance, culture, identity and economy, yet for years we have not had enough salmon to feed our families, and the endangered Orcas are starving. We call the Orcas ‘blackfish’ and consider them our friends and family – given their dependence upon Chinook as primary prey, they may not survive this new rule. We requested government-to-government consultation with the federal agencies so that we could share all of this, but they rejected our request. This unlawful action undermines the Tribe’s Treaty protected rights and resources, and feels deeply disrespectful,” said **Swinomish Tribal Chairman Edwards**.

Chinook salmon populations in the Skagit River were listed as threatened under the Endangered Species Act in 1999 and despite ongoing habitat protection and restoration efforts, remain at approximately 20% of their recovery levels. The state and federally approved 2005 Skagit Chinook Recovery Plan lists estuary habitat and floodplain habitat as primary limiting factor to Skagit Chinook salmon recovery. A small fraction of historic Skagit River estuary and floodplain habitat remains intact. Tens of thousands of acres of historic Skagit estuary habitat were converted to agricultural land in the past century through an extensive drainage system that relies on dozens of dikes, ditches and tidegates. The Skagit River floodplain has been choked off through an extensive series of levees and dikes that allowed development in the floodplain where vital Chinook salmon habitat once existed. Once habitat is lost to development or converted into agriculture, it is extremely challenging to restore it.

Senator Wilbur continued, “Our salmon and Treaty Rights have suffered for decades as a direct result of habitat loss. Our federal trustees’ unilateral decision to rescind the harm rule is a lose-lose for Swinomish: according to the United States it will be unlawful for the Tribe to catch a protected fish in its Treaty-reserved fisheries, but lawful for a developer to drain or degrade all the habitat that same fish needs to survive. This action makes no sense and we are challenging it to ensure that the Swinomish Tribal Community has fish to fish for the next seven generations.”

Background

The Swinomish Indian Tribal Community has cared for the Skagit River and fished its waters since time immemorial and has a reserved treaty right to fish within the entire Skagit River basin and beyond. The Skagit River is home to all six species of Pacific salmon found in Washington State, including steelhead, and is the most important salmon-producing river in Puget Sound. It is the second largest producer of salmon in Washington after the Columbia River and one of the largest on the West Coast. Skagit River salmon are critically important to the Swinomish Indian Tribal Community and to all the parts of the ecosystem that depend on salmon, including critically endangered Southern Resident killer whales. Swinomish is a federally recognized tribe with over 1,200 members.

Swinomish is a signatory to the 1855 Treaty of Point Elliott. Its 10,000-acre Reservation is located 65 miles north of Seattle, Washington, on Fidalgo Island.

The Squaxin Island Tribe, also known as the People of the Water, are descendants of the maritime people who have lived, hunted, fished, and gathered along the shores of the southernmost inlets of the Salish Sea for thousands of years. ESA-listed species present in these waters include Puget Sound Chinook salmon, Puget Sound steelhead, Bull trout, Southern Resident killer whales, and marbled murrelets. The Tribe's cultural and economic well-being depend upon the health and sustainability of Pacific Salmon and other fresh-water and marine resources, which play a central role in the daily lives of Tribal members. Squaxin, a signatory to the 1854 Treaty of Medicine Creek, has approximately 1,000 tribal members, most of whom live on or near the Reservation.

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