



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 18-16

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill its duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Nisqually Tribe instituted litigation in U.S. v. Washington, contending that the Squaxin Island Tribe does not hold usual and accustomed treaty harvest rights in the disputed area in Southern Puget Sound, Judge Martinez ruled in favor of Squaxin Island, and Nisqually thereafter appealed the adverse decision to the 9th Circuit, and each Tribe desires to resolve usual and accustomed claims that Nisqually has or might assert through a settlement agreement; and

WHEREAS, the Squaxin Island Tribal Council wishes to enter into the Settlement Between the Nisqually Tribe and the Squaxin Island Indian Tribe (“the Settlement”), a copy of which is attached to this Resolution; and

NOW THEREFORE BE IT RESOLVED, that the Tribe is authorized to enter into the Settlement, and that Chairman Cooper is authorized to sign the Settlement and bind the Squaxin Island Indian Tribe to the terms of the Settlement;

BE IT FURTHER RESOLVED, that the Squaxin Island Tribe Legal Department is authorized to take the steps necessary to cause the dismissal of Nisqually's appeal of Subproceeding 14-2; and to have the Settlement entered as an Order in U.S. v. Washington.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 28th day of February, 2018 at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



Arnold Cooper, Chairman

Attested by: 

Steven Dorland, Secretary



Charlene Krise, Vice Chairman

Settlement Agreement between the Nisqually Indian Tribe and Squaxin Island
Indian Tribe

This settlement agreement is entered into by the Nisqually Indian Tribe (“Nisqually”) and the Squaxin Island Indian Tribe (“Squaxin”) (collectively “Tribes”). Nisqually and Squaxin enter into this agreement in an effort to ensure that each Tribe will continue to enjoy productive fisheries to the mutual benefit of the Tribes and their respective members.

This agreement concerns usual and accustomed (“U&A”) claims in the following waters (“Disputed Area”):

Those salt waters south and east of a line drawn from Mahnckes Point on the Kitsap peninsula to the westernmost point of McNeil Island bordering on Pitt Passage, then extending from Hyde Point on McNeil Island to Gordon Point on the mainland, and east of a line drawn from Johnson Point to Devils Head.

Nisqually filed a Request for Determination (RFD) in *United States v. Washington* (Civ. No. C70-9213), referred to as Subproceeding 14-2, seeking a determination of Squaxin Island’s rights in the above described (“Disputed Area”). On June 15, 2016 Judge Martinez entered judgement in favor of Squaxin in Subproceeding 14-2. Nisqually appealed. This settlement is intended to resolve all disputes arising out of Subproceeding 14-2 and to further resolve all current and future U&A claims between Nisqually and Squaxin.

Nisqually and Squaxin hereby agree to the following:

1. Dismissal of the Appeal of 14-2.

Nisqually agrees to dismiss its appeal of Subproceeding 14-2, in the Ninth Circuit, with prejudice. Each side bears its own costs.

2. No further U&A disputes between Nisqually and Squaxin.

The Nisqually Tribe’s adjudicated U&A is the area described in *United States v. Washington*, 384 F. Supp. 312, 367-70 (W.D. Wash. 1974) and in *United States v. Washington*, 626 F. Supp. 1441-1442 (W.D. Wash. 1985).

The Squaxin Island Tribe's adjudicated U&A is the area described in *United States v. Washington*, 384 F. Supp. 312, 377-78 (W.D. Wash. 1974); in *United States v. Washington*, 626 F. Supp. 1441-1442 (W.D. Wash. 1985); and in *Nisqually v. Squaxin Island*, Subproceeding 14-02 (Judge Martinez's Order of June 15, 2016 (Dkt. No. 50), (Dkt. 56), and (Dkt. 59)).

Nisqually and Squaxin agree that there shall be no further primary rights or U&A dispute litigation as between the two Tribes, or fishing outside of the adjudicated U&As. Any such actions will be a violation of this agreement and subject to a Contempt of Court action.

The limitations and prohibitions in this agreement shall not limit either tribe's treaty fishing rights in salt or fresh water north of the Tacoma Narrows or in freshwater courses outside of South Puget Sound drainage.

3. Fin-fish Co-Management Agreement in the Disputed Area.

Nisqually and Squaxin agree to co-manage fin-fisheries in the Disputed Area. Fin-fisheries in the Disputed Area shall be conducted as follows between the two Tribes:

All fin fisheries in the Disputed Area are to be conducted only by agreement of both Tribes. The two Tribes shall meet each year, ahead of North of Falcon or any other pre-season meeting, to discuss proposed fisheries in the Disputed Area for the upcoming season, and to review forecasts and set acceptable impacts for proposed fisheries. With respect to fishing in the Disputed Area, the two Tribes shall only conduct fisheries that are agreed to by the two Tribes.

4. Fresh Water Fisheries in the Nisqually River and McAllister Creek.

Fisheries in the fresh water of the Nisqually River and McAllister Creek are not subject to the procedures described in Paragraph 3 above. The two Tribes agree to the following concerning treaty fisheries in the fresh water of the Nisqually River and McAllister Creek:

Treaty fisheries conducted by the Nisqually Tribe in the fresh water of the Nisqually River and McAllister Creek are consistent with the principle of not intercepting fish bound for the other Tribe's area.

Paragraph 4 of the agreement operates only with respect to the fresh water of the Nisqually River and McAllister Creek.

5. Geoduck Harvest in the Disputed Area.

Squaxin shall take no more than 30,000 pounds annually of the tribal share of geoduck available in the Disputed Area. The two Tribes shall work together to coordinate geoduck harvest in a manner to allow safe and efficient harvest and to avoid conflict on the water.

6. Dispute Resolution.

Should a disagreement arise regarding the implementation of this agreement, representatives of the respective Tribes' Natural Resources Department shall meet in person to discuss the issue. If staff discussions do not resolve the issue, the Tribes' Councils shall meet face to face to resolve the issue.