

HONORABLE RICARDO S. MARTINEZ

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendant.

Case No. C70-9213

Subproceeding No. 17-3

UPPER SKAGIT INDIAN TRIBE’S
MOTION FOR JUDGMENT ON PARTIAL
FINDINGS AGAINST STILLAGUAMISH
TRIBE PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 52(c)

**NOTE ON MOTION CALENDAR:
APRIL 22, 2022**

I. INTRODUCTION

The Stillaguamish Tribe (“Stillaguamish”) failed to present any evidence during its case-in-chief from which the Court can find that Stillaguamish “customarily fished from time to time at and before treaty times” in the marine waters of Saratoga Passage, Penn Cove, Holmes Harbor, Skagit Bay, Port Susan, or Deception Pass. Pursuant to Federal Rule of Civil Procedure 52(c) Respondent Upper Skagit Indian Tribe (“Upper Skagit”) respectfully moves for entry of judgment against Stillaguamish denying its Request for Determination in its entirety.

1 **II. ARGUMENT**

2 **A. Rule 52(c) Authorizes Entry of Partial Judgment Against Stillaguamish.**

3 When “a party has been fully heard” on an issue tried to the district court, and the court
 4 determines that the party has not met its burden of proof on that claim, Rule 52(c) authorizes the
 5 court to “enter judgment against the party on a claim . . . that, under the controlling law, can be
 6 maintained . . . only with a favorable finding on that issue.” Fed. R. Civ. P. 52(c). “In deciding
 7 whether to enter judgment on partial findings under Rule 52(c), the district court is not required to
 8 draw any inferences in favor of the non-moving party,” *Ritchie v. United States*, 451 F.3d 1019,
 9 1023 (9th Cir. 2006), but instead “may make findings in accordance with its own view of the
 10 evidence,” *id.* (“Rule 52(c) expressly authorizes the district court to resolve disputed issues of
 11 fact.”); *Certain Underwriters at Lloyd’s, London v. Pettit*, No. C17-259 RSM, 2018 WL 5874653,
 12 at *2 (W.D. Wash. Nov. 9, 2018) (“trial court is empowered to judge the credibility of the
 13 witnesses”). “In reviewing a judgment following a bench trial,” including the dismissal of a claim
 14 under Rule 52(c), the district court’s findings of fact are reviewed “for clear error and its legal
 15 conclusions de novo.” *Tonry v. Sec. Experts, Inc.*, 20 F.3d 967, 970 (9th Cir. 1994).

16 Here, Stillaguamish’s case-in-chief fell far short of proof that Stillaguamish’s “usual and
 17 accustomed fishing grounds and stations” (“U&A”) included any marine waters. The evidence
 18 confirmed that the Stillaguamish were a river fishing people. They enjoyed an abundance of
 19 fishing opportunity on their home river. There is overwhelming evidence that the Stillaguamish
 20 fished very successfully by focusing on salmon moving upstream in the Stillaguamish River. It is
 21 not surprising then that the historical record contains no evidence that the Stillaguamish fished
 22 “customarily . . . from time to time” in saltwater, much less that such marine areas were their
 23 “usual and accustomed” grounds and stations. This failure of proof applies to Saratoga Pass, Penn
 24 Cove, Holmes Harbor, Skagit Bay, Port Susan, and Deception Pass. The Court should enter
 25
 26

1 judgment against each and every aspect of Stillaguamish’s request for determination.¹

2 **B. Stillaguamish Has Failed to Present Evidence Sufficient to Establish U&A in Saratoga**
3 **Pass, Penn Cove, Holmes Harbor, Skagit Bay, Port Susan, or Deception Pass.**

4 Stillaguamish has not presented any evidence from which this Court can conclude that
5 Stillaguamish’s “usual and accustomed fishing grounds and stations” (“U&A”), as reserved under
6 the Treaty of Point Elliot, included Saratoga Pass, Penn Cove, Holmes Harbor, Skagit Bay, Port
7 Susan, or Deception Pass.

8 **1. Dr. Friday Did Not Establish, but Merely Speculated, that Stillaguamish**
9 **Fished Everywhere They Traveled.**

10 In order to prove U&A in the marine waters of Saratoga Pass, Penn Cove, Holmes Harbor,
11 Skagit Bay, Port Susan, and Deception Pass, the law of the case requires that Stillaguamish do
12 more than proffer evidence of (potential) village locations, (infrequent) travel, or (possible)
13 presence in an area. Stillaguamish had the burden to prove by a preponderance of the evidence
14 that the existence of tribal villages or their presence in an area “coincide[d] with” evidence of
15 fishing. *United States v. Washington*, 459 F. Supp. 1020, 1059 (W.D. Wash. Sept. 10, 1975)
16 (holding evidence of village locations not enough to prove fishing at those locations). I.e.,
17 “evidence” of fishing in an area means more than inferring that if they were there, they must have
18 actually and usually fished.

19 In the 1975 subproceeding, the Court considered three types of evidence in determining the
20 Tulalip Tribes’ U&A: testimony by Dr. Barbara Lane, testimony from a tribal elder about post-
21 treaty fishing locations, and ICC findings about the location of Tulalip’s “coastal and river
22 villages.” *Id.* The Court held that the ICC findings “of the Indian coastal and river villages,”
23 although raising the “presum[ption]” of fishing activities, was not enough. *Id.* The Court held:

24 _____
25 ¹ See *Pettit*, 2018 WL 2874653, at *4 (entering judgment against plaintiff on negligence and unseaworthiness claims
26 pursuant to Rule 52(c) where evidence presented by plaintiff at trial failed to establish cause of fire, defendant’s breach
of duty of care, and injury caused by vessels’ unseaworthy condition); *K&SD Enters., Inc. v. Equilon Enters. LLC*, No.
C05-1972-JCC, 2007 WL 9775505, at *2 (W.D. Wash. Jan. 18, 2007) (granting defendant’s Rule 52(c) motion where
plaintiff’s evidence at close of its case failed to support breach of contract claim).

1 In the present case, the findings of the Claims Commission of the Indian coastal
 2 and river villages, from which fishing activities may be presumed, *coincide with*
 3 *the findings of Dr. Lane and the testimony of Mrs. Dover*. Future utilization of
 4 Indian Claims Commission decisions and findings for the purpose of establishing
 the usual and accustomed fishing places *shall be given consideration consistent*
with the above stated limitations.

5 *Id.* (emphasis added). Even though the Tulalip Tribes had proven “coastal and river villages, by
 6 which fishing activities may be presumed,” that presumption was not enough to support a
 7 “reasonable inference[]” that fishing activities had occurred there. *Id.* Instead, to support a U&A
 8 finding, the Court required evidence of *fishing* to accompany evidence of coastal and river villages.
 9 *Id.*

10 Stillaguamish has presented no such evidence at trial. Dr. Friday cannot point to any
 11 evidence of treaty time fishing by Stillaguamish in the marine waters of Saratoga Passage, Penn
 12 Cove, Holmes Harbor, Skagit Bay, Port Susan, or Deception Pass. The historian’s recurring theme
 13 is that, at or before treaty time, Stillaguamish traveled over the marine area between Olympia,
 14 Washington and Victoria, British Columbia and must have fished while they traveled.² Dr. Friday
 15 has interpreted a smattering of records of *travel* to claim that Stillaguamish fished in these (and
 16 other) locations. But none of the evidence on which his conclusions depend is of actual fishing.
 17 Dr. Friday claims that the “context” compels the conclusion of regular “utilization” of marine
 18 resources. But this simply demonstrates the fundamental flaw in his analysis: it is flatly
 19 inconsistent with the law of the case. If the Court were to endorse Dr. Friday’s approach,
 20 Stillaguamish (or almost any other Coast Salish tribe, for that matter) could just as easily lay claim
 21 to fishing rights at Lummi Island, Port Gamble, and Elliott Bay. In that case, this case would
 22 rapidly develop more arms than an octopus as other tribes would be compelled to respond in kind.

23 Dr. Friday adds to his travel speculation a hodgepodge of vague evidence of disputed

24 _____
 25 ² See, e.g., Farmer Decl., Ex. 2 at 65:16-67:11 (speculating about travel to Lummi for winter dances and concluding
 26 that “there’s, at least, a suggestion that that might be a part of a seasonal cycle of migration based on ceremony.”); Ex.
 3 at 56:12-25 (speculating that Stillaguamish were out on saltwater and noting that August would have been a good
 time to salmon fish in Shilshole and Elliott Bay). All exhibits (“Ex.”) referenced herein are attached to the Declaration
 of Tyler L. Farmer, filed in support of this motion.

1 village locations (which may or may not have been Stillaguamish), infrequent travel, exogamy, and
2 post-treaty conduct. In the absence of direct evidence of fishing (of which Dr. Friday offers none),
3 this kind of evidence has been regularly and properly rejected in determining U&A and should be
4 rejected here. *See* 459 F. Supp. at 1059.

5 **2. There is No Evidence That Stillaguamish Customarily Fished in Saratoga**
6 **Passage at and Before Treaty Time.**

7 Stillaguamish has presented no evidence in its case-in-chief of Stillaguamish fishing at and
8 before treaty time in the waters of Saratoga Passage. Dr. Friday testified that Stillaguamish
9 “engaged in marine fisheries” (Farmer Decl., Ex. 1 at 79:21) in Saratoga Passage, but he relied
10 almost exclusively on post-Treaty references to a Stillaguamish presence on Camano Island,
11 including a single documented instance of Stillaguamish in 1856 seeking permission to travel from
12 the temporary encampment on Whidbey Island near Penn Cove to Camano Island to harvest
13 berries. Ex. SW-021 at p. 677; Farmer Decl., Ex. 2 at 79:5-17. Dr. Friday was unable to identify a
14 shred of evidence of the existence, much less the specific location, of any Stillaguamish village on
15 the shores of Saratoga Passage:

16 Q. Dr. Friday, do you have any evidence . . . that identifies a specific location
17 for a Stillaguamish village or encampment on the western side of Camano Island?

18 A. Only that they were present on Camano Island on the north side, and then,
19 uhm, just the references to being present on the island itself.

20 Farmer Decl., Ex. 3 at 169:10-16. He also failed to identify any direct evidence of Stillaguamish
21 fishing in the marine waters of Saratoga Passage at and before treaty time:

22 Q. And is it correct that you have no direct evidence on the Stillaguamish
23 Tribe fishing in Saratoga Passage at treaty time?

24 A. The evidence that I have comes from the context of them moving through
25 that area, and the -- and the notations that they were present on the western side of
26 Camano Island, which is on the shoreline of Saratoga Passage.

Id. at 158:8-13.

Dr. Friday’s testimony epitomizes the wisdom of the law of this case: travel and/or

1 presence do not establish fishing. If they did, there will literally be a parade of similar assertions
 2 by tribes. There is no informant testimony, no tribal voice, no historical writing, no artifact. There
 3 is no evidence of a *single* Stillaguamish tribal member fishing in the waters of Saratoga Passage at
 4 any date at or before treaty time.

5 **3. There is No Evidence That Stillaguamish Customarily Fished at Penn Cove.**

6 Faced with no evidence at all of Stillaguamish fishing at Penn Cove, Dr. Friday turned to
 7 speculation, which in turn was generated by irrelevant evidence. Dr. Friday placed Stillaguamish
 8 at Penn Cove during a period of Indian relocation from 1856 and 1857. Farmer Decl., Ex. 4 at
 9 8:10-12. Nothing in the Indian Agent reports remotely suggests that Stillaguamish were regularly
 10 present (let alone regularly present and fishing) at Penn Cove before the government embarked on
 11 relocation camps. Dr. Friday says that: “the context that is created by these documents illustrates
 12 their knowledge of the areas, their movement across the areas, and their presence in the areas.” *Id.*
 13 at 10:20-11:1. But these events prove nothing about fishing, much less U&A, during the relevant
 14 time period. There must be empirical evidence of fishing, and at the relevant time: i.e., the
 15 evidence must be probative of fishing at or before treaty time, not later. There is none.
 16 Stillaguamish members’ relocation to Whidbey Island has no bearing on the issue here: whether
 17 Stillaguamish fished in the marine waters in Penn Cove at and before treaty time, much less did so
 18 “customarily.”

19 Tribal relocation was part of a hostile history. The effort had little or nothing to do with the
 20 Indian Tribes’ customary arrangements at and before Treaty time. The Tribes were ordered to
 21 relocate based on their geographic proximity to a *reserve*, not based on any effort to keep them in
 22 their familiar territory. In fact, Stillaguamish members *left* the relocation camps at Penn Cove and
 23 Holmes Harbor to go home, back up the Stillaguamish River to their traditional territory and
 24 resources. Farmer Decl., Ex. 2 at 67:12-17 (Stillaguamish “gone to Stillaguamish River to look
 25 after the family’s potato patch”).

26 There is no evidence from which the Court could infer Stillaguamish U&A in the marine

1 waters of Penn Cove.

2 **4. Stillaguamish Did Not Customarily Fish Holmes Harbor.**

3 Stillaguamish’s claim of U&A in the marine waters of Holmes Harbor is fatally defective
4 for similar reasons. The evidence at trial showed that the bshi (i.e., the Bsigwigwilts, predecessor
5 in interest to Upper Skagit) owned Holmes Harbor. Ex. SG-121 at p. 17; *accord* Farmer Decl., Ex.
6 2 at 171:2-4. There is no evidence of Stillaguamish presence in (let alone control of or fishing in)
7 Holmes Harbor at or before treaty time save for Mowich Sam, which proves nothing. Sally
8 Snyder’s notes explain that Mowich Sam “went there to fish” *because* he “had a [bshi] wife.” Ex.
9 SG-121 at p. 17; *see also* Farmer Decl., Ex. 2 at 171:2-4 (“Q. What tribe was his wife a member
10 of? A. The Bshi tribe here, who Snyder identified as owning Holmes Harbor.”). I.e., Mowich Sam
11 was allowed to fish in the marine waters at Holmes Harbor not because Stillaguamish fished there
12 at and before treaty times, but because his wife was a member of the tribe that controlled the
13 resource. Dr. Friday ultimately conceded this point during cross-examination:

14 Q. And Mowich Sam gained access to the right to fish in Holmes Harbor by
15 way of marriage; correct?

16 A. That appears to be so, yes.

17 Farmer Decl., Ex. 4 at 6:5-7; *accord* *United States v. Washington*, 476 F. Supp. 1011, 1110 (W.D.
18 Wash. 1979) (“Being communal in nature, [U&A fishing] rights are not inheritable or assignable
19 by the individual member to any person, party or other entity of any kind whatsoever.”).

20 Lacking any evidence of Stillaguamish fishing at Holmes Harbor, Dr. Friday resorted to
21 speculation based on the temporally and substantively irrelevant post-Treaty “journals and
22 correspondence” from Indian agents stationed at relocation camps on Whidbey Island. Farmer
23 Decl., Ex. 4 at 9:25-103; *see also id.* at 6:5-7:2 (testifying to bases of opinion regarding
24 Stillaguamish U&A in Holmes Harbor). As set forth in the Penn Cove section immediately above,
25 the Indian Agents’ reports (*see* Exs. SW-021, SG-017, SG-032) do not provide any evidence of
26 Stillaguamish fishing in either Penn Cove or Holmes Harbor on a single occasion at and before

1 treaty times. There is no evidence from which the Court can infer that Stillaguamish regularly
2 fished in these waters.

3 **5. There is No Evidence That Stillaguamish Fished Skagit Bay at and Before**
4 **Treaty Times.**

5 Stillaguamish has also presented no evidence that Stillaguamish customarily fished in
6 Skagit Bay at and before treaty times. Dr. Friday conceded at trial that he had found no evidence
7 of Stillaguamish *fishing* in Skagit Bay at and before treaty time:

8 Q. Dr. Friday, do you have any specific evidence of Stillaguamish fishing in
9 Skagit Bay at treaty time?

10 A. No; only their *presence*.

11 Farmer Decl., Ex. 4 at 11:2-4 (emphasis added).

12 Dr. Friday also admitted that Chief James Dorsey's 1926 affidavit submitted to the United
13 States Court of Claims (*see* SG-071) provides no evidence of Stillaguamish fishing in marine
14 waters, specifically including Skagit Bay, at and before treaty times:

15 Q. . . .

16 Mr. Dorsey stated "that at all or practically all of the villages, herein
17 before mentioned, the Indian people had fish traps in which fish were taken for
18 fresh eating and smoking and drying for winter use."

19 Did I read that correctly?

20 A. Yes.

21 Q. And in this affidavit by Mr. Dorsey, he does not state that the
22 Stillaguamish fished in Skagit Bay; correct?

23 A. Correct. The Court of Claims was not about marine fisheries.

24 Q. And in this affidavit, Mr. Dorsey does not state that the Stillaguamish
25 fished anywhere in marine waters; correct?

26 A. He's locating villages. We've established where those villages are, based
on Dorsey's affidavit. They range from the lower Stillaguamish River delta, all
up toward even Oso, along Stillaguamish River drainage. So he's indicated where
permanent winter villages were.

1 Q. Okay. In this affidavit, Mr. Dorsey does not state that the Stillaguamish
2 fished anywhere in marine waters; correct?

3 A. Correct.

4 *Id.* at 30:11-31:5.

5 While the evidence at trial included numerous references to Stillaguamish fishing on its
6 river, there is not a shred of evidence of Stillaguamish fishing on Skagit Bay.

7 **6. Stillaguamish Did Not Customarily Fish Port Susan at and Before Treaty
8 Time.**

9 Stillaguamish claims U&A in Port Susan based on its location, on an unsupportable
10 presumption that Stillaguamish inhabited the Qwadsak area, and on speculation regarding a single
11 reference to shellfish. While the claim has superficial appeal because of the area's proximity to the
12 Stillaguamish River, it fails because there is no evidence of actual fishing in the marine waters.

13 The evidence at trial was that the area adjacent to Port Susan was inhabited by Qwadsak, an
14 indigenous people separate and distinct from the Stillaguamish. Dr. Friday testified:

15 Q: And on the basis of the information we have reviewed on this page and the
16 previous page, taken from Ms. Peters by anthropologist Wayne Suttles, is it fair to
17 say, Dr. Friday, that Suzy Peters distinguished between the Quadsak people and
18 the Stillaguamish people?

19 A: She made a distinction between the people who lived at Port Susan and
20 lived up the Stillaguamish River. She doesn't draw a line where that end of that is
21 above the Stillaguamish River.

22 *Id.* at 70:5-12.

23 The evidence at trial establishes that at treaty time the Stillaguamish area began, at a
24 minimum, four or five miles upriver (SW-176 at LANEST_000482), and that the large majority of
25 the people lived approximately twenty miles upriver. Farmer Decl., Ex. 3 at 67:20-69:25; Ex.
26 USA-28 (Barbara Lane relying on Hancock's account of 1850 trip; village with approximately 300
people "some 20 miles up the river").

Dr. Friday's attempt to conflate the Stillaguamish and the Qwadsak also ignores the
evidence of where Stillaguamish actually fished, all of which consists of river fishing. Copious

1 details of this kind of resource use relayed by informant Jackson Harvey concern specific river
 2 fishing techniques and upriver locations, including Arlington, Falls Creek, and Canyon Creek. Dr.
 3 Friday drew on Mr. Harvey’s terminology to compile his own (misleading) summary of
 4 Stillaguamish and Coast Salish Marine Resource Technologies (Ex. SW-169, Fig. 36). But, at
 5 trial, Dr. Friday admitted that Mr. Harvey made no reference to fishing in marine water. Farmer
 6 Decl., Ex. 4 at 67:2-4.³ At trial there was no evidence of a single instance of Stillaguamish marine
 7 fishing using any of the techniques described by Dr. Friday.

8 Mr. Harvey’s actual evidence (Ex. SW-176) very clearly places Stillaguamish fishing only
 9 on the river and its forks. That testimony is consistent with the 1926 affidavit of James Dorsey,
 10 who affirmed that he has “spent his entire life on the Stillaguamish River” and describes the
 11 Stillaguamish territory as “confined for the most part to the aforesaid Stillaguamish River, both
 12 branches and tributaries.” Ex. SG-071. These tribal voices are in line with Hancock’s account of
 13 his 1850 trips up the Stillaguamish River, which places the Stillaguamish people upriver and
 14 makes no mention of any saltwater presence, let alone use.

15 Among the over 150 trial exhibits, there is no evidence that Stillaguamish regularly fished
 16 Port Susan; this U&A claim must be denied.

17 **7. Stillaguamish Travel to Victoria Does Not Establish U&A in Deception Pass.**

18 Dr. Friday’s penchant for speculation is epitomized by his incredible opinion that
 19 Stillaguamish regularly fished in the marine waters of Deception Pass. Dr. Friday’s conclusion is
 20 based on two references to travel by Stillaguamish to Victoria. *See* Farmer Decl., Ex. 3 at 151:10-
 21 152:7 (citing Sally Oxstien’s journal (Ex. SG-79) and Esther Ross’ testimony (Ex. SG-100)).
 22 Neither writing includes any mention of fishing. Neither even states that Stillaguamish actually
 23 traveled to Victoria via Deception Pass. Dr. Friday’s speculation that they did so (*see id.* at
 24

25 _____
 26 ³ The evidence at trial strongly suggests that Dr. Friday (who is not a fishing expert or a biologist) misplaced his
 reliance on shellfish and flounder fishing accounts. The evidence suggests that those activities occurred at Florence—
 upstream from Stanwood. SG-137; Farmer Decl., Ex. 4 at 41:3-23.

1 157:15-16 (“the route to Victoria would have been most logical to go through Deception Pass”))
2 discloses an apparent ignorance of the actual hazards of traveling, let alone canoe fishing, in
3 Deception Pass, where tidal flows make merely moving through Deception Pass in a modern
4 “powered” vessel hazardous except during a short period every six hours. Nothing in Oxstien or
5 Ross’ accounts suggests that the travel was regular; indeed, it is equally likely that both writings
6 refer to the same, single, and therefore noteworthy trading trip.

7 The evidence strongly suggests that, on whatever route they took, the Stillaguamish
8 traveled solely to trade. The evidence refers to a canoe filled with hides to trade for guns and
9 blankets. There is no reference to fishing, and there was little or no room for fish or fishing gear.
10 Ex. SG-100 (“My people said they traded. They went in canoes to Victoria, and traded their hides
11 for groceries.”); Ex. SG-79 (“Then we found out they were buying hides at Victoria so we would
12 load up our canoe and go there and trade our hides for blankets and guns . . .”).

13 Dr. Friday admitted on cross-examination that the authorities on which he relied to
14 conclude that Stillaguamish fished in the marine waters at Deception Pass do not document fishing
15 by the Stillaguamish or the route they took to Victoria:

16 Q. Okay. Now, in Exhibit SG-79, Sally Oxstien does not mention Deception
17 Pass at all; correct?

18 A. No, she does not.

19 Q. She does not mention traveling in Skagit Bay; correct?

20 A. No, she does not.

21 Q. She does not identify the route taken when traveling to Victoria; correct?

22 A. No, she does not.

23 Q. She does not mention fishing while traveling; correct?

24 A. No, she does not.

25 Q. She does not mention a method of fishing while traveling; correct?

26 A. No, she does not.

1 Q. She does not mention eating fish or cooking fish while traveling to
2 Victoria; correct?

3 A. No, she does not.

4 Farmer Decl., Ex. 3 at 153:15-154:6.

5 Q. ...

6 And in this passage of Esther Ross's testimony that you're relying on, Dr.
7 Friday, Esther Ross does not mention Deception Pass; correct?

8 A. Correct.

9 Q. She doesn't mention fishing in Skagit Bay?

10 A. Correct.

11 Q. She doesn't identify any place that they -- that her people stopped when
12 traveling to Victoria; correct?

13 A. Correct.

14 Q. She doesn't mention fishing while traveling; correct?

15 A. Correct.

16 Q. She doesn't mention the number of times that her people traveled to
17 Victoria; correct?

18 A. No, she does not mention the number.

19 *Id.* at 156:21-157:9.

20 Stillaguamish's claim to the marine waters of Deception Pass is based on sheer, and highly
21 improbable, speculation.

22 III. CONCLUSION

23 At trial, Dr. Friday testified that Stillaguamish traveled to Olympia, Fort Nisqually, Port
24 Gamble, Seattle, Lummi, Guemes, Saratoga Passage, Penn Cove, Holmes Harbor, Skagit Bay, and
25 Deception Pass. He speculated that the Stillaguamish were familiar with all of these waters and
26 their resources and that they therefore *must* have regularly fished while they traveled. There is no
evidence of actual fishing at and before treaty time at any of these locations. Speculation that if a

1 tribe travelled, they necessarily fished in a manner sufficient to establish U&A would inevitably
2 lead to a reopening of over 50 years of case precedent. Stillaguamish's request to expand its U&A
3 should be dismissed with prejudice.

4
5 DATED this 28th day of March, 2022.

6 UPPER SKAGIT INDIAN TRIBE

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