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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

5 UNITED STATES OF AMERICA, et al.,

6 Plaintiffs,

7 v.

8 STATE OF WASHINGTON, et al.,

9 Defendants.

CASE NO. C70-9213 RSM

ORDER DENYING MOTION FOR LEAVE TO
OPEN NEW SUBPROCEEDING

10
11 This matter comes before the Court on the *ex parte* motion of the Quinault Indian Nation
12 (“the Quinault Nation”) for leave to open a new subproceeding. Dkt. #22735. This Motion asks the
13 Court “to determine and declare for the first time the non-exclusive treaty and equitable rights of the
14 Nation to manage and harvest all species of fish, shellfish, and where lawful, marine mammals in
15 the marine waters south of Grays Harbor to Willapa Bay and Shoalwater Bay, and the mouth of the
16 Columbia River, and in the freshwater to about sixty (60) river miles eastward, including, but not
17 limited to, Peacock Spit, Cape Disappointment, Fort Canby, Sand Island, Illwaco, Chinook,
18 McGowan, Dahlia, Cathlamet and Oak Point in Washington State (the “Subject Waters”).” *Id.* at 1–
19 2. The Motion certifies compliance with the pre-filing requirements of Paragraph 25 of the
20 Permanent Injunction, and the Court’s Supplemental Order on Paragraph 25 Procedures. *See* Dkt.
21 #22735 at 4–5.

22 The pre-filing requirements of Paragraph 25 of the Permanent Injunction, as modified August
23 11, 1993 (Dkt. #13599), and the Court’s Supplemental Order on Paragraph 25 Procedures (Dkt.
24 #19893), set forth the procedures required for filing a motion for leave to open a new subproceeding.
25 The Court is to “consider the motion as soon as practicable and shall liberally grant such motions,
provided the Request for Determination appears to fit within the purposes set forth at Paragraph

1 25(a) of the Permanent Injunction.” Dkt. #19893 at 2 (citing Dkt. #13599). The Order granting the
2 motion for leave to file shall not constitute a final determination that the dispute is within the Court’s
3 jurisdiction under Paragraph 25, and such jurisdiction may still be questioned by the responding
4 party. *Id.*

5 The Quinault Nation begins by setting forth this Court’s previous determinations of its usual
6 and accustomed fishing grounds (“U&A”). In Final Decision #1, the usual and accustomed fishing
7 places of the Quinault Nation “included the following rivers and streams: Clearwater, Queets,
8 Salmon, Quinault (including Lake Quinault and the Upper Quinault tributaries), Raft, Moclips,
9 Copalis, and Joe Creek,” and that this was later expanded to include “Grays Harbor and its
10 watershed, including the Humptulips River.” Dkt. #22735 at 3. Most recently, in Subproceeding
11 09-1, the Court determined the Quinault Nation’s marine U&A as follows:

12 **Quinault Offshore U&A:** A polygon commencing at the Pacific
13 coast shoreline near Destruction Island, located at latitude 47°40'06"
14 north, longitude 124°23'51.362" west; then proceeding west
15 approximately thirty nautical miles at that latitude to a northwestern
16 point located at latitude 47°40'06" north, longitude 125°08'30" west;
17 then proceeding in a southeasterly direction mirroring the coastline no
18 farther than thirty nautical miles from the mainland Pacific coast
19 shoreline at any line of latitude, to a southwestern point at latitude
20 46°53'18" north, longitude 125°53'53" west; then proceeding east
21 along that line of latitude to the pacific coast shoreline at latitude
22 46°53'18" north, longitude 124°7'36.6" west.

19 Subproceeding No. 09-01, Dkt. #439, at 5-6.

20 This determination is quoted in the instant Motion *almost* verbatim. *See* Dkt. #22735 at 4.
21 The only major change is the words “a polygon” are omitted by the Quinault Nation. The instant
22 Motion then states:

23 This Court has never adjudicated Quinault’s southern treaty fishing
24 boundary or made any determination regarding Quinault fishing rights
25 in Willapa Bay, Shoalwater Bay, or on the Columbia River. Accordingly, neither Final Decision #1 nor subproceeding 09-1 resolved these unadjudicated portions of Quinault’s treaty reserved usual and accustomed fishing grounds and left unresolved the precise

1 extent of Quinault’s southern fishing boundary, which remains subject
2 to determination.

3 *Id.* This is the sole basis for the instant Motion.

4 The Court has reviewed everything above and the remainder of the record and concludes
5 that, even liberally construed, the instant Motion fails to fit within the purposes set forth at Paragraph
6 25(a) of the Permanent Injunction. The Quinault Nation’s U&A has been adjudicated with a clear
7 southern boundary. Eight years ago, the Court set forth a marine U&A as a polygon with a
8 southwestern point and a southeastern point and a line connecting the two—the southern boundary.
9 Willapa Bay, Shoalwater Bay, and the mouth of the Columbia River are all more than 10 miles south
10 of that boundary. To include them in the marine Q&A now would be to overrule the Court’s prior
11 adjudication. The Quinault Nation fails to demonstrate that anything was left unadjudicated. To the
12 contrary, the Motion states that the Court (back in Subproceeding 09-1) was presented with
13 “evidence demonstrating that Quinault marine fishing practices were oriented southward and
14 westward along the coast ‘between Cape Flattery and the Columbia River’ as well as ‘60 miles south
15 of Quinault in Shoalwater Bay,’” but nevertheless drew the line more than 10 miles north of Willapa
16 Bay, Shoalwater Bay, and the Columbia River. There is no basis for the Court to amend its prior
17 conclusions, or apparent logical reason to adjudicate a U&A in the freshwater of the Columbia River
18 now after all of the previous determinations reached in this matter.

19 Accordingly, having considered the Motion and the relevant record, the Court hereby FINDS
20 and ORDERS that the Motion of the Quinault Indian Nation for leave to open a new subproceeding,
21 Dkt. #22735, is DENIED.

22 DATED this 2nd day of June, 2026.

23 

24 RICARDO S. MARTINEZ
25 UNITED STATES DISTRICT JUDGE