

July 10, 2015

Foster Pepper Helps Quileute Tribe Retain Ancestral Fishing Rights

On July 9, 2015, Judge Ricardo S. Martinez of the U.S. District Court of the Western District of Washington ruled in favor of the Quileute Tribe after a lengthy 23-day bench trial that ended in April. The court heard testimony from eleven witnesses and admitted 472 exhibits comprised of thousands of pages. The court also heard argument and reviewed briefs by the Makah, Quileute, Quinault, Hoh, Port Gamble S'Klallam, Jamestown S'Klallam, Tualip, Swinomish, Upper Skagit, Nisqually, Squaxin Island, Muckleshoot, Puyallup, and Suquamish Tribes, the United States, and the State of Washington. During trial Makah argued for a fishing limit at five to 10 miles offshore. The State of Washington argued for four miles. After considering all of the testimony and evidence, the court ruled that the Quileute will have the right to take fish in the ocean out to 40 miles offshore and as far north as Cape Alava.

In 2009, the Makah Indian Tribe sued the Quileute Tribe and the Quinault Indian Nation in *United States v. Washington*, seeking to dramatically cut back the areas in the ocean in which the Quileute and Quinault could fish. At stake were the western boundaries for the Quileute and Quinault in the Pacific Ocean, as well as the northern boundary of the Quileute's treaty fishing grounds. Treaty fishing boundaries are determined based upon where a tribe customarily fished at and before treaty times (the 1850s). Evidence drawn from linguistics, archaeology, marine biology, and anthropology was presented at trial to prove where the Quileute fished at and before treaty times.

Initially filed in 1971, *United States v. Washington* established a now-40-year-old injunction safeguarding the treaty fishing rights of various Pacific Northwest tribes. This is only the second subproceeding in the long history of this case in which the court was asked to rule on the boundaries of a tribe's usual and accustomed fishing grounds in the Pacific Ocean.

In issuing its ruling, the court commended the efforts of counsel "for their exhaustive, thorough, and diligent efforts throughout the course of trial and the proceedings leading up to it. Indeed, trial on these three boundaries exceeded the length of the original trial before Judge Boldt leading to Final Decision # 1, a reflection of the great care and extensive research time and resources invested by all parties to this case. It is with the utmost respect for the impassioned efforts and the sincere professionalism demonstrated by all parties during this unusually extensive trial, as well as for the profound investment of diverse communities in the decision rendered herein, that the Court sets forth the following findings of fact and conclusions of law."

The Quileute Indian Tribe was represented by [Lauren King](#) and Jake Larson of the Foster Pepper Litigation & Dispute Resolution practice, along with co-counsel John Tondini of Byrnes Keller Cromwell LLP. Lauren King commented: "We were proud and humbled to represent the ancestors, the members and the generations yet to come of the Quileute Tribe to help ensure that they can continue their connection to the ocean. This is an important win for all tribes' treaty rights."



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