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## 3.11 American Indian and Alaska Native Traditional Resources



# **Supplemental Environmental Impact Statement/ Overseas Environmental Impact Statement Northwest Training and Testing**

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### **3.11 American Indian and Alaska Native Traditional Resources**

#### **3.11.1 Affected Environment**

For purposes of this Supplemental Environmental Impact Statement (EIS)/Overseas Environmental Impact Statement (OEIS) (Supplemental), the Study Area for American Indian and Alaska Native traditional resources remain the same as that identified in the 2015 Northwest Training and Testing (NWTT) Final EIS/OEIS. As presented in the 2015 NWTT Final EIS/OEIS, there are 56 federally recognized tribes and Nations (hereinafter referred to as tribes) with traditional resources (e.g., plants, animals, usual and accustomed [U&A] fishing grounds) in the Study Area. The Study Area is divided into three distinct regions for American Indian and Alaska Native traditional resources evaluation: the Offshore Area; the Inland Waters; and Western Behm Canal, Alaska. Several types of traditional resources are present in the Study Area, including various plants and animals as well as tribal marine resource gathering areas (e.g., traditional fishing areas; whaling areas; and seaweed-, mussel-, abalone-, and clam-gathering grounds). These traditional resources include off-reservation treaty U&A fishing grounds, some of which extend beyond 12 nautical miles (NM).

Protected tribal resources, as defined in Department of Defense Instruction 4710.02, *DoD Interactions with Federally Recognized Tribes* (U.S. Department of Defense, 2018), are “those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by or reserved by or for Indian tribes through treaties, statutes, judicial decisions, or EOs [Executive Orders], including Tribal trust resources.” Tribal trust resources are Indian lands or treaty rights to certain resources. These resources include plants, animals, and locations associated with hunting, fishing, and gathering activities for subsistence or ceremonial use. For the purposes of this section, the term “traditional resources” will be used to encompass protected tribal resources.

The connection between native peoples and tribal resources varies between individuals, cultures, and the unique interactions they have with the plants, animals, waters, and earth they encounter during their life journey. This connection holds another layer of complexity when considering what information and stories are passed down from previous generations of tribal members. A Statement from the Hopland Band of Pomo Indians, California was shared as part of the *Intertribal Sinkyone Wilderness Council et al v. National Marine Fisheries Service et al.* case filed January 26, 2012 (Intertribal Sinkyone Wilderness Council, 2012). The statement describes cultural traditions that are vital to the traditions, physical health, and spiritual health shared by many tribes along the Pacific coastline.

American Indian and Alaska Native historic properties of traditional religious and cultural importance to Tribes and Alaska Natives (i.e., cultural resources eligible for listing in the National Register of Historic Places under the National Historic Preservation Act) are discussed in Section 3.10 (Cultural Resources).

##### **3.11.1.1 Government-to-Government Consultation**

In October 1998 and as amended in 1999, the Department of Defense (DoD) promulgated its Native American and Alaska Native Policy, emphasizing the importance of respecting and consulting with Tribal governments on a government-to-government basis (U.S. Department of Defense, 2018). The policy requires an assessment, through consultation, of the effects of proposed DoD actions that may have the potential to significantly affect traditional resources (including traditional subsistence resources such as shellfish), Tribal rights (such as fisheries), and American Indian lands before decisions are made by DoD personnel. In addition, the DoD issued its *Department of Defense American Indian and Alaska Native Policy: Alaska Implementation Guidance* to consider situations and issues unique to Alaska Native Tribes.

The United States (U.S.) Department of the Navy (Navy) will continue government-to-government communications with several tribes in Washington, California, and Alaska in accordance with Secretary of the Navy Instruction 11010.14B, *Department of the Navy Policy for Consultation with Federally Recognized Indian Tribes, Alaska Native Tribal Entities, and Native Hawaiian Organizations*; Commander, Navy Region Northwest Instruction 11010.14, *Policy for Consultation with Federally-Recognized American Indian and Alaska Native Tribes* (November 10, 2009); Executive Order (EO) 13175, *Consultation and Coordination with Indian Tribal Governments*; EO 13007, *Indian Sacred Sites*; the Presidential Memorandum dated April 29, 1994, *Government-to-Government Relations with Native American Governments*; the National Historic Preservation Act of 1966 as amended in 2006; the American Indian Religious Freedom Act of 1978, and Navy consultation policies as needed. It is Navy policy to establish permanent government-to-government working relationships with tribal governments that are built upon respect, trust, and openness. Under these policies, the Navy is required to consider tribal comments and concerns prior to making a final decision on a proposed action. However, reaching formal agreement with a tribe or obtaining tribal approval prior to a final decision is not required.

During the preparation of the 2015 NWTT Draft EIS/OEIS, the Navy consulted with tribes. On February 7, 2018, the Navy invited 56 federally recognized tribes to consider initiating government-to-government consultation for the Proposed Action in this Supplemental (see Appendix I, Agency Correspondence). Tribes and their concerns regarding the Navy's training and testing activities as they relate to tribal resources are summarized below.

Certain tribes in the Puget Sound region have expressed concerns regarding the potential of Navy training and testing activities to impede access to adjudicated treaty U&A fishing grounds and stations as well as concerns regarding the potential for Maritime Security Operations to damage tribal fishing gear. The Navy continues to communicate with the Jamestown S'Klallam Tribe, Lower Elwha Tribal Community, Port Gamble S'Klallam Tribe, Skokomish Indian Tribe, Upper Skagit, and Suquamish Indian Tribe of the Port Madison Reservation regarding these concerns and improving on-water vessel coordination in order to eliminate or minimize potential impacts to tribal fishing in these co-use marine waterways. Also, the Navy continues to coordinate with potentially affected tribes for activities conducted in Crescent Harbor.

Since 2015, the Navy has engaged in government-to-government consultation with the Intertribal Sinkyone Wilderness Council, representing the Cahto Tribe of Laytonville Rancheria; Coyote Valley Band of Pomo Indians of California; Hopland Band of Pomo Indians; Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redwood Valley Little River Band of Pomo Indians; Round Valley Indian Tribes, Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California regarding potential impacts to traditional resources in the marine environment to address the tribes' concerns regarding Navy training and testing activities within the Study Area. The Navy also received and considered comments from the Intertribal Sinkyone Wilderness Council; Lummi Nation of Western Washington; Makah Tribe, Northwest Washington; the Port Gamble S'Klallam Tribe; Potter Valley Tribe; Quinault Indian Nation, of Washington; Squaxin Island Tribe; Suquamish Indian Tribe of the Port Madison Reservation; and Yurok Tribe regarding the training and testing exercises proposed by the Navy.

Based on Navy policies for tribal consultation, the Navy protects culturally sensitive information identified by tribes, as well as government-to-government consultation information, from public disclosure; consultation documents are maintained in the Navy's administrative record and are not

included as an attachment to this document. However, comments submitted by tribes and tribal organizations during the public comment period and Navy's response to comments, which are separate and distinct from government-to-government consultations, are provided in Appendix H (Public Comments and Responses).

### **3.11.1.2 American Indian and Alaska Native Tribes**

#### **3.11.1.2.1 Offshore Area**

As discussed in Section 3.11.1.4 (Federal Trust Responsibility and Federally Secured Off-Reservation Fishing Rights) of the 2015 NWTT Final EIS/OEIS, 18 federally recognized tribes are currently or historically associated with the Offshore Area. Tribal lands for these federally recognized tribes and for some of the tribes listed under the Inland Waters (Section 3.11.1.2.2) are shown in Figure 3.11-1, if data was available for them and if their lands were within or close to the Study Area. The Navy has received updated information from 10 of these tribes and the InterTribal Sinkyone Wilderness Council, as shown in Table 3.11-1, and has considered this information in this analysis. Each of the 10 tribes is a member of the InterTribal Sinkyone Wilderness Council that is comprised of 10 federally recognized North Coast Tribes in California. The Council is a non-profit land conservation consortium that owns and manages 4,000 acres of redwood forestland (InterTribal Wilderness land) along the Lost Coast north of Fort Bragg, California. Please see the profile in Table 3.11-1 regarding InterTribal Sinkyone Wilderness Council.

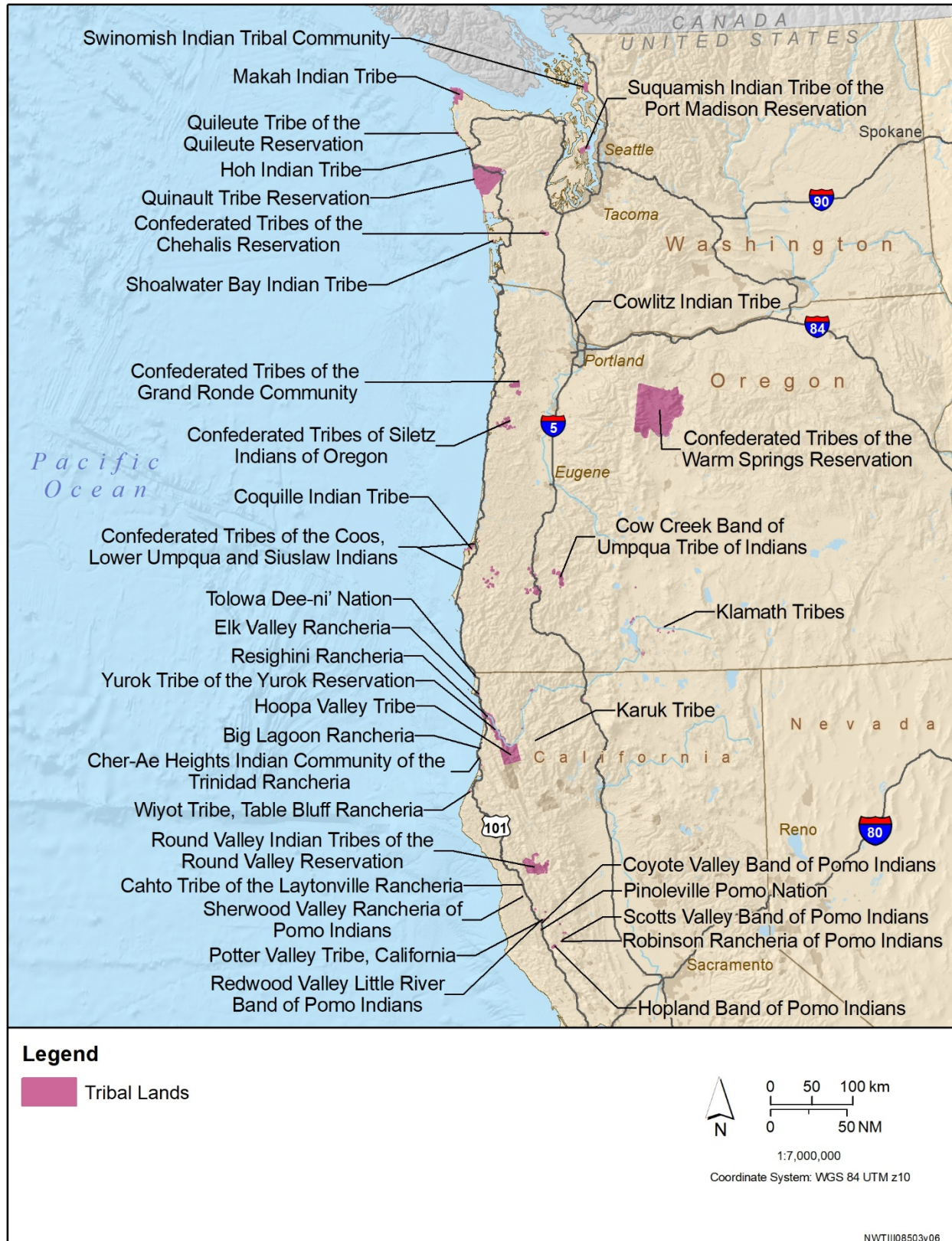


Figure 3.11-1: Tribal Lands for American Indian Tribes Associated with the Offshore Area



**Table 3.11-1: Offshore Area – Updates for American Indian Tribes and Traditional Resources**

<i>Resource Type</i>	<i>Tribe</i>	<i>Brief Profile*</i>
Traditional Resources	Cahto Tribe of the Laytonville Rancheria	The name Cahto (Kato) means loosely “People of the Lake” or “Lake People,” and refers to an ancient lakeshore where the Cahto people once lived, although we, the inhabitants of the six villages of the Long Valley, called ourselves the Tlokyáhan or “Grass People.” Our homeland is comprised of mountains and hills covered with fir, pine, oak and redwoods and is veined with streams. A nearby 4,213-foot-high mountain summit is named Cahto peak in our honor. Besides gathering the plentiful nuts, seeds, berries, roots, bulbs, and tubers, we hunted for deer, rabbits, quail, and fish to provide additional food for our people. We traveled within our traditional homeland to where the food was plentiful, and to the Mendocino coast to harvest seaweed and fish. Today, once a year the Cahto retrace their migrations to the coast using sacred trails in remembrance of the ancient tradition.
Traditional Resources	Coyote Valley Band of Pomo Indians of California	The Coyote Valley Band of Pomo Indians live on the Coyote Valley Reservation located in Redwood Valley, California. Traditionally, subsistence is based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and sea-going fish (Bean & Theodoratus, 1978; McLendon & Lowy, 1978). The tribe still practices their traditional songs, dances and spiritual ways. Currently, the economy is based on gaming, hotel, convenience store, and gas station (Tiller, 2005).
Traditional Resources	Hopland Band of Pomo Indians, California	The Hopland Band of the Pomo Indians resides in northwestern California south of Ukiah. Traditional territory includes Humboldt County to San Pablo Bay; fishing and gathering trips to the Pacific Ocean were seasonally based. Traditionally, subsistence was based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and ocean fish (Bean & Theodoratus, 1978; McLendon & Lowy, 1978). Currently, the economy is based on agriculture, commercial development, and gaming (Tiller, 2005).
Traditional Resources	Pinoleville Pomo Nation, California	The Pinoleville Pomo Nation resides in northern California in Mendocino and Lake Counties (Tiller, 2005). Traditionally, subsistence was based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and sea-going fish (Bean & Theodoratus, 1978; McLendon & Lowy, 1978). Currently, the economy is based on agriculture.
Traditional Resources	Potter Valley Tribe, California	The Potter Valley Tribe resides in northern California northeast of Ukiah, and Tribal members are of the Little Lake Pomo Band (Tiller, 2005). Traditionally, subsistence was based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and ocean fish (Bean & Theodoratus, 1978; McLendon & Oswalt, 1978). Currently, the economy is based on commercial development.

**Table 3.11-1: Offshore Area – Updates for American Indian Tribes and Traditional Resources  
(continued)**

<i>Resource Type</i>	<i>Tribe</i>	<i>Brief Profile*</i>
Traditional Resources	Redwood Valley Little River Band of Pomo Indians	The Redwood Valley Little River Band of Pomo Indians resides northeast of Redwood Valley in Mendocino County along the northeastern side of the Russian River valley. Members of the Redwood Valley Little River Band of Pomo Indians belong to the Northern Pomo (Tiller, 2005). Traditionally, subsistence was based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and ocean fish (Bean & Theodoratus, 1978; McLendon & Oswalt, 1978).
Traditional Resources	Robinson Rancheria of Pomo Indians	The Robinson Rancheria of Pomo Indians is located northwest of Sacramento, California. Traditionally, subsistence was based on acorns, nuts, seeds, root plants, waterfowl, and lake and stream fish such as suckers, pike, and carp (McLendon & Lowy, 1978; McLendon & Oswalt, 1978). Currently, the economy is based on commercial development, gaming and tourism (Tiller, 2005).
Traditional Resources	Round Valley Indian Tribes Round Valley Reservation	The Round Valley Indian Tribes reside on the Round Valley Reservation located in the northeastern portion of Mendocino County, California. The greater area was the aboriginal traditional territory of the Yuki Tribe, until 1858 when the Round Valley Reservation was established with the establishment of the Nome Cult Farm. Now the reservation is home to the Yuki, Concow, Pomo, Nomlacki, Wailacki, and Pit River Indians. The tribal territory reached from the mountains around the valley to the coast. Traditionally foods as well as medicinal and personal needs remained to be gathered from this vast area. Subsistence came from gathering from trees, roots, grasses, brush and most other plant life (Seeds, berries, nuts, leaves, stems, and roots were utilized); large and small game; vertebrates and invertebrates (i.e., deer, elk, birds, surf fish, shellfish, eel, salmon, steelhead, otter, etc.) were harvested from the waterways in and around the tribal territory.
Traditional Resources	Scotts Valley Band of Pomo Indians of California	The Scotts Valley Band of Pomo Indians resides on the Sugar Bowl Rancheria in northern California (Tiller, 2005). Traditionally, subsistence was based on acorns, nuts, seeds, root plants, deer, elk, antelope, seal, sea lion, and lake, stream, and sea-going fish (Bean & Theodoratus, 1978; McLendon & Oswalt, 1978).

**Table 3.11-1: Offshore Area – Updates for American Indian Tribes and Traditional Resources  
(continued)**

<i><b>Resource Type</b></i>	<i><b>Tribe</b></i>	<i><b>Brief Profile*</b></i>
Traditional Resources	Sherwood Valley Rancheria of Pomo Indians of California	<p>Sherwood Valley Rancheria is located within aboriginal homelands we have used and occupied since time immemorial. Our homeland extends from approximately the Highway 101 corridor, through the Redwood Forests on to the Coast. As the original stewards of this land we retain original usufructuary rights to protect the land, air, water, and food sources upon our homeland. We have freely gathered coastal resources since time immemorial, and protection of the aboriginal food sources and traditional gathering places is a fundamental human right.</p> <p>Sherwood Valley Rancheria was established under Secretarial Order in 1909. Sherwood Valley is the successor in interest to ownership of the Mendocino Indian Reservation, established by Act of Congress on March 3, 1853. Sherwood Valley Rancheria is governed under a Constitution and Bylaws duly adopted and approved by the Secretary of the Interior on July 25, 1974.</p> <p>The Sherwood Valley Rancheria Tribal Council, as representatives of individual tribal members, strives to promote and perpetuate the protection of natural resources for future generations.</p>
Traditional Resources	<p><b>InterTribal Sinkyone Wilderness Council</b> is a consortium comprised of the following federally recognized tribes:</p> <ul style="list-style-type: none"> <li>• Cahto Tribe of Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Hopland Band of Pomo Indians</li> </ul>	<p>The InterTribal Sinkyone Wilderness Council is a non-profit consortium of 10 sovereign Tribal Nations whose duty is to protect culturally important traditional lands and waters of its member tribes. Established in 1986, the Sinkyone Council is charged with safeguarding the coastal rainforest and ocean ecosystems on which its member tribes depend for their cultural ways of life, traditional foods, wellbeing, and identity. It owns and manages 4,000 acres of redwood rainforest in northwestern Mendocino County, California that includes portions of nine coastal watersheds. InterTribal Sinkyone lands are situated within California's Coastal Zone.</p> <p>The Study Area encompasses marine waters situated within the traditional territories of several west coast Tribal Nations. The Sinkyone Council's 10 member tribes each retain important cultural, ancestral, historic, and contemporary ties to ocean and coastal areas within the Navy's Study Area, specifically the portion of traditional Sinkyone Tribal territorial marine waters, (and adjacent) estuarine waters and coastal environments that are situated between the Mendocino-Humboldt county line and the mouth of the Mattole River.</p>

**Table 3.11-1: Offshore Area – Updates for American Indian Tribes and Traditional Resources  
(continued)**

<i>Resource Type</i>	<i>Tribe</i>	<i>Brief Profile*</i>
Traditional Resources	<b>InterTribal Sinkyone Wilderness Council</b> (continued) <ul style="list-style-type: none"> <li>• Redwood Valley Little River Band of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>	(continued) An abundance of extant oral and written evidence substantiates the tribes' assertions of historical, current and ongoing coastal and maritime cultural uses and ways of life including traditional gathering, fishing, harvesting, ceremonial and other practices within and adjacent to marine waters situated within the Study Area. These areas have been a part of the tribes' traditional territories for millennia. This area of the Study Area is located within the documented and acknowledged geographical boundaries of traditional Sinkyone Tribal territory held and controlled by the original Sinkyone coastal peoples from which enrolled members of the Council's member tribes are directly descended.

\*The Navy met with the InterTribal Sinkyone Wilderness Council and received these updates in 2018 and 2019. These profiles are direct quotes from the tables received by the Navy (InterTribal Sinkyone Wilderness Council, 2018) and (InterTribal Sinkyone Wilderness Council, 2019). Each of the 10 tribes is a member of the InterTribal Sinkyone Wilderness Council that is comprised of 10 federally recognized North Coast Tribes in California. The Council is a non-profit land conservation consortium that owns and manages 4,000 acres of redwood forestland (InterTribal Wilderness land) along the Lost Coast north of Fort Bragg, California.

Four tribes, listed below, have off-reservation Treaty U&A fishing grounds in co-use navigable water areas in Washington where the Navy conducts training and testing in the Offshore Area:

- Hoh Indian Tribe
- Makah Indian Tribe of the Makah Reservation
- Quileute Tribe of the Quileute Reservation
- Quinault Indian Nation

The following 14 Washington, Oregon, and California federally recognized tribes have traditional resources (e.g., migratory fish species, specifically salmon, that migrate upstream into the inland waters) in co-use navigable water areas where the Navy conducts training and testing activities in the Offshore Area:

- Big Lagoon Rancheria, California
- Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
- Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Oregon
- Confederated Tribes of Grand Ronde Community of Oregon, Oregon
- Confederated Tribes of Siletz Indians of Oregon, Oregon
- Confederated Tribes of the Chehalis Reservation, Washington
- Coquille Indian Tribe, Oregon
- Cowlitz Indian Tribe, Washington
- Elk Valley Rancheria, California
- Resighini Rancheria, California
- Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, Washington
- Tolowa Dee-ni' Nation, California (listed as Smith River Rancheria in the 2015 NWTT Final EIS/OEIS)
- Wiyot Tribe (formerly the Table Bluff Rancheria), California
- Yurok Tribe of the Yurok Reservation, California

Also, 15 federally recognized tribes with traditional use areas inland of the Oregon and California coast may have traditional resource habitat in the Offshore Area; these migratory marine resources (e.g., salmon, steelhead, lamprey eel, and sturgeon) travel the rivers upstream into the tribes' traditional territories and are part of the local subsistence and ceremonial activities of the tribes:

- Cahto Tribe of the Laytonville Rancheria, California
- Confederated Tribes of the Warm Springs Reservation, Oregon
- Cow Creek Band of Umpqua Tribe of Indians, Oregon
- Coyote Valley Band of Pomo Indians of California, California
- Hoopa Valley Tribe, California
- Hopland Band of Pomo Indians, California
- Karuk Tribe, California
- Klamath Tribes, California
- Pinoleville Pomo Nation, California
- Potter Valley Tribe, California
- Redwood Valley Little River Band of Pomo Indians
- Robinson Rancheria of Pomo Indians, California
- Round Valley Indian Tribes, Round Valley Reservation, California
- Scotts Valley Band of Pomo Indians, California
- Sherwood Valley Rancheria, California

The traditional use areas and resources for these tribes as discussed in the 2015 NWTT Final EIS/OEIS have not changed.

### 3.11.1.2.2 Inland Waters

Twenty federally recognized tribes are currently or were historically associated with the Inland Waters. Tribal lands for these federally recognized tribes are shown in Figure 3.11-1 and Figure 3.11-2, if data was available for them and if their lands were within or close to the Study Area. In Washington, these 20 tribes have federally secured off-reservation Treaty U&A fishing rights in co-use navigable waters where the Navy conducts training and testing in the Inland Waters:

- Confederated Tribes and Bands of the Yakama Nation
- Jamestown S’Klallam Tribe
- Lower Elwha Tribal Community
- Lummi Tribe of the Lummi Reservation
- Makah Indian Tribe of the Makah Reservation
- Muckleshoot Indian Tribe
- Nisqually Indian Tribe
- Nooksack Indian Tribe
- Port Gamble S’Klallam Tribe
- Puyallup Tribe of the Puyallup Reservation
- Samish Indian Nation
- Sauk-Suiattle Indian Tribe
- Skokomish Indian Tribe
- Snoqualmie Indian Tribe
- Squaxin Island Tribe of the Squaxin Island Reservation
- Stillaguamish Tribe of Indians of Washington
- Suquamish Indian Tribe of the Port Madison Reservation
- Swinomish Indian Tribal Community
- Tulalip Tribes of Washington
- Upper Skagit Indian Tribe

There is no new or updated information, since the 2015 NWTT Final EIS/OEIS, regarding the traditional use areas and resources for these tribes as discussed in the 2015 NWTT Final EIS/OEIS.

### 3.11.1.2.3 Western Behm Canal, Alaska

Four federally recognized Alaska Native tribes are currently or historically associated with the Western Behm Canal in co-use navigable waters where the Navy conducts testing:

- Central Council of the Tlingit and Haida Indian Tribes
- Ketchikan Indian Corporation
- Metlakatla Indian Community, Annette Island Reserve
- Organized Village of Saxman

Tribal and Alaska Native corporation lands for these federally recognized Alaska Native tribes are shown in Figure 3.11-3, if data was available for them and if their lands were within or close to the Study Area. The traditional use areas and resources for these tribes as discussed in the 2015 NWTT Final EIS/OEIS have not changed.

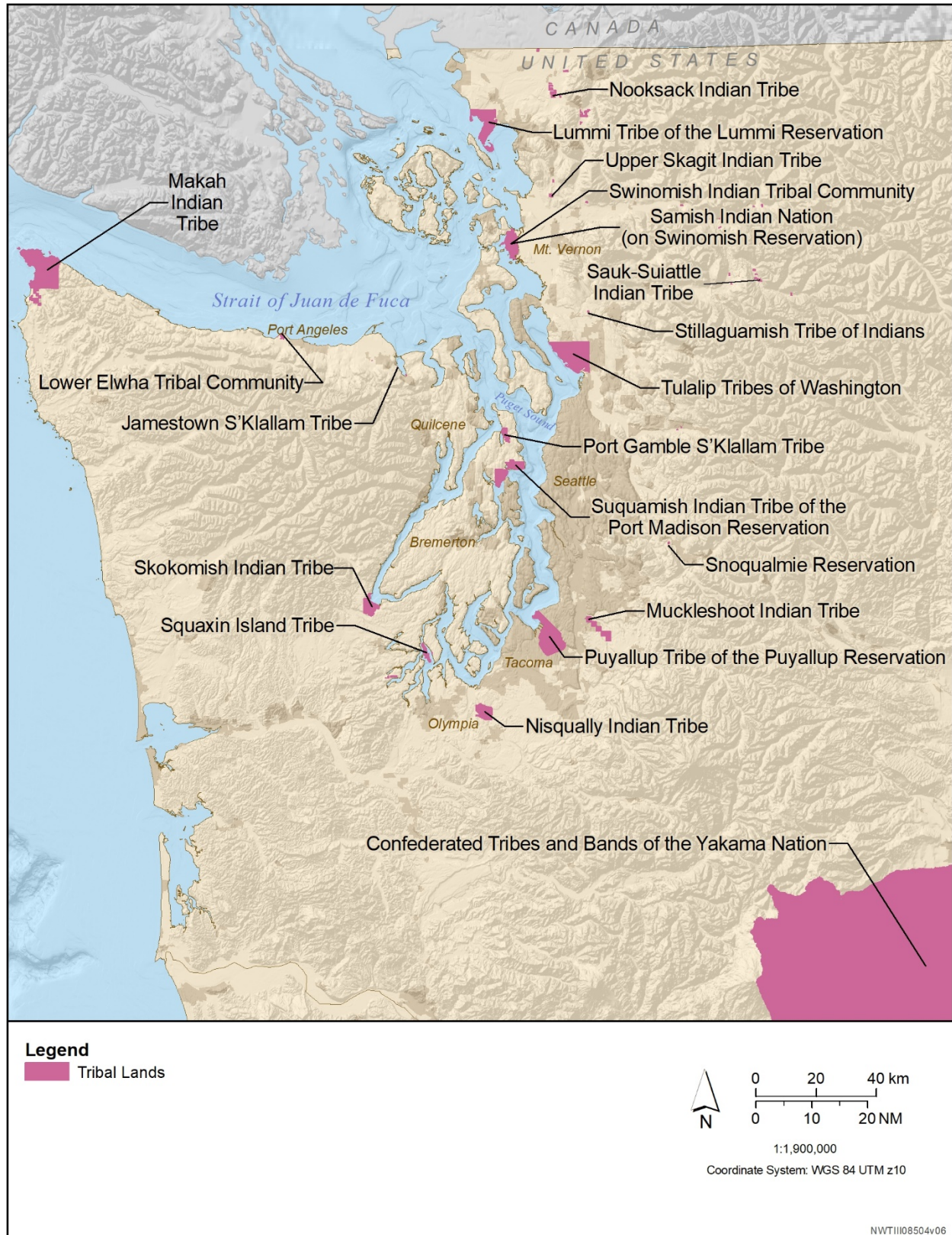
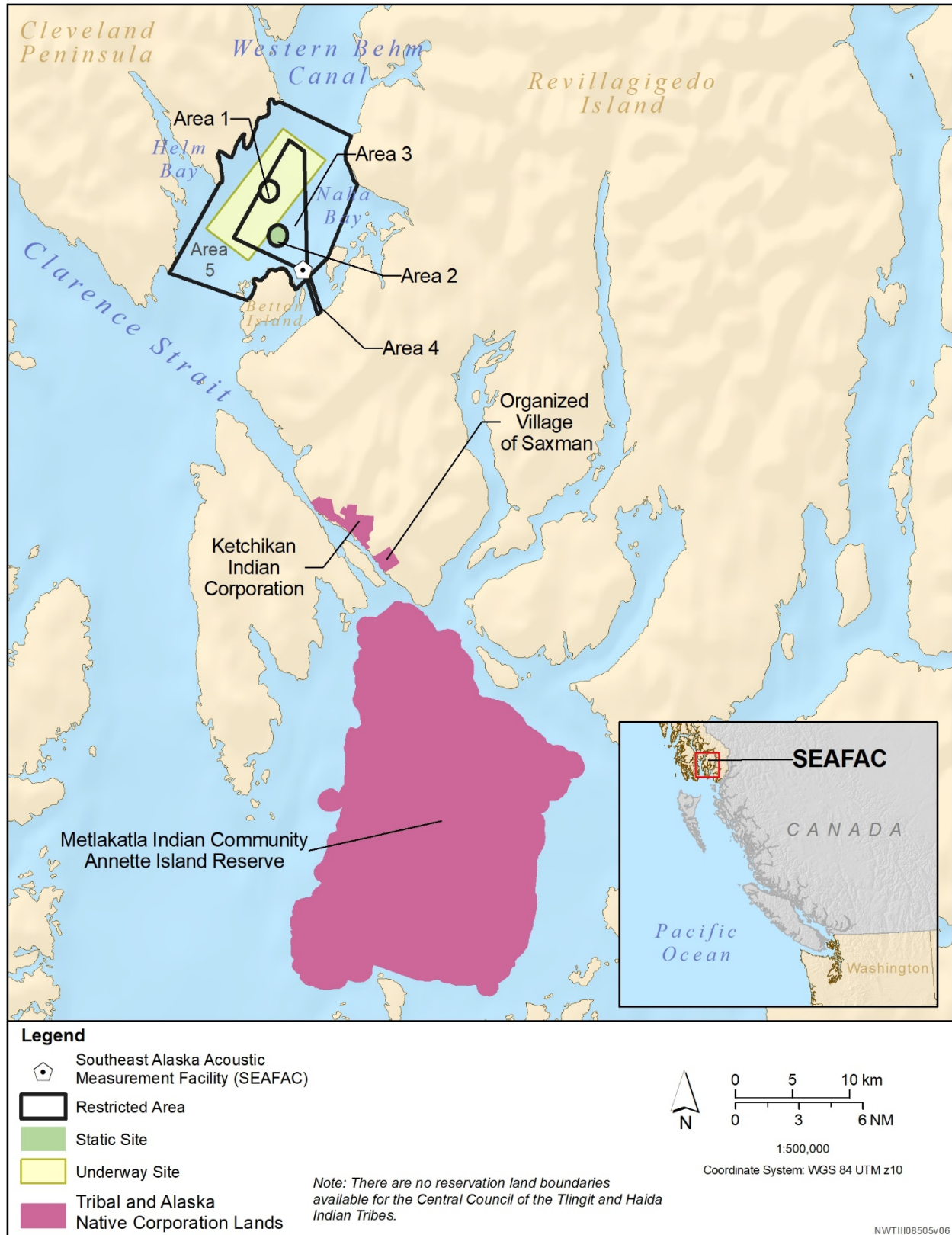


Figure 3.11-2: Tribal Lands for American Indian Tribes Associated with the Inland Waters







#### **3.11.1.2.4 Tribal Traditional Knowledge**

During the Draft Supplemental NWTT EIS/OEIS 2019 commenting period, Tribes provided Tribal Traditional Knowledge in the form of public comments. These comments stressed the importance of whales in general and Southern Resident killer whales in particular, to their cultural practices. The Navy acknowledges the concerns and comments received, which asked that the Navy protect whale habitats, prey species (e.g., Chinook salmon, herring, other fisheries, and prey), and migration patterns. The Navy has undertaken extensive analysis of potential impacts to marine mammals as a result of the Proposed Action in Section 3.4 (Marine Mammals). The Navy also has developed and implemented geographic and other operational mitigation measures as discussed in Chapter 5 (Mitigation) and Appendix K (Geographic Mitigation Assessment) of this Supplemental.

#### **3.11.1.3 Tribal Fishing Areas and Use**

As presented in the 2015 NWTT Final EIS/OEIS, many of the marine species found within the Study Area are culturally significant to the tribes of coastal Washington, Oregon, California, and Alaska. Tribes harvest traditional resources for ceremonial and subsistence uses as well as for commercial enterprises (i.e., tribal fisheries). Tribal fisheries are place-oriented and, in some cases, limited to the adjudicated U&A fishing grounds. For this reason, the availability and health of marine resources and supporting habitats is a concern for tribes in the Study Area.

##### **3.11.1.3.1 Offshore Area**

The U&A fishing grounds for the Hoh Indian Tribe, Makah Indian Tribe of the Makah Reservation, Quileute Tribe of the Quileute Reservation, and the Quinault Indian Nation include Olympic Peninsula Rivers and watersheds, and offshore areas. These tribes utilize the Northwest Indian Fisheries Commission (NWIFC), which provides technical support to Western Washington member tribes for intertribal fisheries management and harvest policy. Tribal U&A fishing grounds were established in offshore areas beyond U.S. territorial waters (greater than 12 NM), including within Olympic Coast National Marine Sanctuary as described in the 2015 NWTT Final EIS/OEIS.

In addition to tribes that have off-reservation Treaty U&A fishing grounds in co-use navigable waters, there are 14 Washington, Oregon, and California federally recognized tribes that have traditional resources (e.g., migratory fish species, specifically salmon that migrate upstream into the inland waters) in co-use navigable waters (as described in the 2015 NWTT Final EIS/OEIS, Section 3.11.2.1.1, Offshore Area). Also, there are 15 federally recognized tribes with traditional use areas inland to the Oregon and California coast that may have traditional resource habitat in Offshore Areas associated with migratory marine resources (e.g., salmon, steelhead, lamprey eel, and sturgeon) (as described in the 2015 NWTT Final EIS/OEIS, Section 3.11.2.1.1, Offshore Area).

##### **3.11.1.3.1.1 Salmon Fisheries**

Commercial, ceremonial, and subsistence fishing for salmon in the Offshore Area as described in the 2015 NWTT Final EIS/OEIS has not changed except as for variable changes in salmon population health.

##### **3.11.1.3.1.2 Groundfish Fisheries**

Treaty rights to fish for groundfish in the Offshore Area are the same now as they were described in the 2015 NWTT Final EIS/OEIS.

### **3.11.1.3.1.3 Pacific Halibut Fisheries**

Commercial, ceremonial, and subsistence fishing for Pacific halibut in the Offshore Area as described in the 2015 NWTT Final EIS/OEIS has not changed.

### **3.11.1.3.1.4 Shellfish Harvests**

Along the Pacific coastal sandy beaches from the Columbia River to Kalaloch, federal management plans are signed each year between Washington Department of Fish and Wildlife and tribal governments with razor clam harvest rights and substantial treaty harvest of Dungeness crab. Razor clam harvests are set and monitored within each of the five management beaches: Twin Harbors from Willapa Bay north to the south jetty at the mouth of Grays Harbor, Copalis Beach from the north jetty at the mouth of Grays Harbor to the Copalis River, Mocrocks from the Copalis River to the Moclips River (south boundary of the Quinault Indian Reservation), and Kalaloch from the South Beach campground to Olympic National Park Beach Trail 3 (U.S. Department of the Navy, 2006).

### **3.11.1.3.2 Inland Waters**

As stated in the 2015 NWTT Final EIS/OEIS, 20 American Indian tribes have U&A fishing grounds (including the Strait of Juan de Fuca, Puget Sound, and inland rivers in the Inland Waters of the Study Area). These tribes include:

- Confederated Tribes and Bands of the Yakama Nation
- Jamestown S'Klallam Tribe
- Lower Elwha Tribal Community
- Lummi Tribe of the Lummi Reservation
- Makah Indian Tribe of the Makah Reservation
- Muckleshoot Indian Tribe
- Nisqually Indian Tribe
- Nooksack Indian Tribe
- Port Gamble S'Klallam Tribe
- Puyallup Tribe of the Puyallup Reservation
- Samish Indian Nation
- Sauk-Suiattle Indian Tribe
- Skokomish Indian Tribe
- Snoqualmie Indian Tribe
- Squaxin Island Tribe of the Squaxin Island Reservation
- Stillaguamish Tribe of Indians of Washington
- Suquamish Indian Tribe of the Port Madison Reservation
- Swinomish Indian Tribal Community
- Tulalip Tribes of Washington
- Upper Skagit Indian Tribe

The Western Washington Treaty tribes created the NWIFC to coordinate fisheries management of these tribes for implementation of orders arising from the 1974 *United States v. Washington* decision. As stated previously, this commission provides technical support to American Indian tribes assisting in intertribal coordination on harvest policy. The Columbia River Treaty Tribes created the Columbia River Intertribal Fish Commission (U.S. Department of the Navy, 2015).

Since the 2015 NWTT Final EIS/OEIS, the Makah Tribal Council issued its “Makah Ocean Policy” (2017) to assist the Makah Tribal Government in asserting its sovereign authority to protect the Makah Tribe’s culture and the continued exercise of its treaty-reserved rights. This policy includes, among other things, guiding principles, historical ocean use, and consultation procedures.

#### **3.11.1.3.2.1 Salmon Fisheries**

As presented in the 2015 NWTT Final EIS/OEIS, each tribe regulates its own fisheries, including allowable gear and locations individually within its U&A fishing grounds. Salmon fisheries are co-managed between the NWIFC, referenced above, and the State Department of Fish and Wildlife to establish harvest limits and timing of fisheries. A coordinated management approach is applied if these areas overlap the U&A fishing grounds of other tribes. Commercial, ceremonial, and subsistence fishing for salmon in the Inland Waters has not changed from its description in the 2015 NWTT Final EIS/OEIS.

#### **3.11.1.3.2.2 Pacific Halibut Fisheries**

Commercial, ceremonial, and subsistence fishing for Pacific halibut in the Inland Waters as described in the 2015 NWTT Final EIS/OEIS has not changed.

#### **3.11.1.3.2.3 Shellfish Harvest**

Commercial, ceremonial, and subsistence harvesting of shellfish in the Inland Waters as described in the 2015 NWTT Final EIS/OEIS has not changed.

#### **3.11.1.3.3 Western Behm Canal, Alaska**

Nonsubsistence Use Areas are defined by Alaska state law as areas where, “... dependence upon subsistence (customary and traditional uses of fish and wildlife) is not a principal characteristic of the economy, culture, and way of life” (Alaska Department of Fish and Game Division of Subsistence, 1992). As discussed in the 2015 NWTT Final EIS/OEIS, the Western Behm Canal is within the Ketchikan Nonsubsistence Use Area (U.S. Department of the Navy, 2015). The State of Alaska established the Ketchikan Nonsubsistence Use Area (Alaska Department of Fish and Game, 2011) around the Southeast Alaska Acoustic Measurement Facility Range and Western Behm Canal, based on interviews with Alaska Natives who testified that this area was not used for subsistence hunts or harvests (Alaska Department of Fish and Game Division of Subsistence, 1992, 2011).

The Navy has extended communication to the Native tribes at both the regional and community level. The Navy sent correspondence to the Ketchikan Indian Corporation, the Organized Village of Saxman, Metlakatla Indian Community, and Central Council of the Tlingit and Haida Indian Tribes, through the NEPA process on 11 Aug 2017, with the Notice of Intent; on 06 February 2018 with an invitation to initiate government to government consultation; and on 20 March 2019 with the Notice of Availability. The Installation Environmental Director for Naval Base Kitsap, which oversees natural resources management at the Navy’s Southeast Alaska Acoustic Facility (SEAFAC), met with representatives from the Ketchikan Indian Corporation and the Organized Village of Saxman to discuss the Facility and its operations on March 18, 2019. No concern regarding tribal fisheries or the tribes’ ability to harvest harbor seal was mentioned during this face to face meeting and tour of the facility. In addition to these correspondence, the Navy followed up with its invitation to initiate government to government on 21 April 2020, with a specific request for any concerns regarding the Navy’s proposed activities on the availability of marine mammals for subsistence use. The Navy followed up this correspondence again on 12 May 2020, with another email asking if there were any concerns the Navy’s proposed activities in the

Western Behm and the availability of marine mammal species or stocks for Alaska Native subsistence use. No responses have been received from the tribes to the Navy's correspondence.

### **3.11.2 Environmental Consequences**

The 2015 NWTT Final EIS/OEIS considered training and testing activities that were projected to occur between 2015 and 2020 in the Study Area and analyzed how associated stressors might impact tribal traditional resources. Stressors applicable to tribal traditional resources in the Study Area are the same stressors analyzed in the 2015 NWTT Final EIS/OEIS:

- Impeding access to tribal U&A fishing grounds or other traditional fishing areas in co-use navigable waters
- Changes to the availability of marine resources or habitat
- Loss or damage to tribal fishing gear

This section evaluates how and to what degree potential impacts on tribal traditional resources from stressors described in Section 3.0 (Introduction) may have changed since the analysis was completed for the 2015 NWTT Final EIS/OEIS. Proposed training and testing activities, the number of times each activity would be conducted annually, and the locations within the Study Area where the activity would typically occur under each alternative are presented in Table 2.5-1, Table 2.5-2, and Table 2.5-3 in Chapter 2 (Description of Proposed Action and Alternatives). The tables also present the same information for activities proposed in the 2015 NWTT Final EIS/OEIS so that the proposed levels of training and testing under this supplement can be easily compared.

The analysis presented in this section also considers standard operating procedures described in Section 2.3.3 (Standard Operating Procedures), and mitigation measures described in Chapter 5 (Mitigation). The Navy would implement these measures to avoid potential impacts on tribal traditional resources from stressors associated with the proposed training and testing activities.

The specific analysis of the training and testing activities presented in this section considers relevant components and associated data with the geographic location of the activity and tribal traditional resources and incorporates analysis from applicable sections such as Section 3.9 (Fishes), Section 3.10 (Cultural Resources), and Section 3.12 (Socioeconomic Resources and Environmental Justice). Training activities are not proposed in the Western Behm Canal; therefore, only the Offshore Area and the Inland Waters are analyzed under training activities.

#### **3.11.2.1 Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas**

##### **3.11.2.1.1 Impacts from Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas**

As stated in the Affected Environment section, the U&A fishing grounds in co-use navigable waters and the NWTT Study Area have not changed since the 2015 NWTT Final EIS/OEIS. U&A fishing grounds are located in the Inland Waters portion of the Study Area and in portions of the Offshore Area located off the coast of Washington. No U&A fishing grounds exist in Western Behm Canal or portions of the Offshore Area located off the coasts of Oregon or California. Because traditional resources in the Western Behm Canal are not available for subsistence uses by Alaska Native tribes, no impact on Alaska Native accessibility of traditional fishing areas would occur as a result of testing activities. Traditionally, some Oregon and California tribes procured marine resources directly from coastal and nearshore areas (less than 12 NM). These traditional fishing and harvesting areas are outside the Study Area, and access to these areas would not be affected by the Proposed Action. This was the conclusion reached in the

2015 NWTT Final EIS/OEIS; as the underlying facts have not changed, the Navy's conclusion remains valid for this Supplemental.

**3.11.2.1.1.1 Impacts from Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas Under Alternative 1**

**Impacts from Impeding Access to U&A Fishing Grounds or Traditional Fishing Areas Under Alternative 1 for Training Activities**

Under Alternative 1, the number of proposed training activities in the Offshore Area and Inland Waters would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Table 2.5-1). Given that the activities would be conducted in the same areas as described in the 2015 analysis, and that the number of training activities would not change significantly, the analysis and impact conclusions from the 2015 NWTT Final EIS/OEIS remains valid. Therefore, Navy training activities in the Offshore Area under Alternative 1 are not likely to impede access to U&A fishing grounds except in rare instances where a vessel attempts to enter an established safety zone during ongoing activities or if it approaches too close to a Navy vessel (33 CFR 165).

The exclusion zone for Explosive Ordnance Disposal training could temporarily impede tribal access to portions of their U&A fishing grounds in the Inland Waters. However, the exclusion zones would be temporary (up to four hours per event) and infrequent (six times per year), and would affect a relatively small area in Hood Canal and Crescent Harbor. Navy training activities in Inland Waters under Alternative 1 could also temporarily impede tribal access to portions of their U&A fishing grounds because of Maritime Security Operations, such as Transit Protection Program training events. The Navy would communicate with potentially affected tribes in advance to de-conflict schedules where possible. In addition, the U.S. Coast Guard (USCG) Maritime Force Protection Unit would provide notification of Transit Protection Program events to Tribal Fisheries Enforcement Officers. Coastal Riverine Group One also provides notifications to Tribal Fisheries Enforcement Officers when they escort high-value units from NAVSTA Everett and Bremerton.

**Impacts from Impeding Access to U&A Fishing Grounds or Traditional Fishing Areas Under Alternative 1 for Testing Activities**

Under Alternative 1, the number of proposed testing activities in the Offshore Area, Inland Waters, and Western Behm Canal would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Table 2.5-2 and Table 2.5-3). Given that the activities would be conducted in the same areas as described in the 2015 analysis, and that the number of training and testing activities would not change significantly, the analysis and impact conclusions from the 2015 NWTT Final EIS/OEIS remains valid. As stated in the 2015 NWTT Final EIS/OEIS, the Navy normally has the ability to obtain a clear range for testing activities in the Offshore Area without asking other vessels to leave the area. Navy testing activities would not prevent the use of an area by fishing or other vessels, absent unusual circumstances. Navy testing activities in the Offshore Area under Alternative 1 are not likely to impede access to U&A fishing grounds except in rare instances where a vessel attempts to enter an established safety zone during ongoing activities or if it approaches too close to a Navy vessel.

Alternative 1 would include testing of explosive torpedoes and explosive mine-countermeasure and neutralization testing. However, explosive torpedo testing would be conducted greater than 50 NM off the coast of Washington, outside of U&A fishing grounds. Explosive mine-countermeasure and neutralization testing would occur outside the Olympic Coast National Marine Sanctuary, at least 3 NM or greater from the shore in the Quinault Range Site and at least 12 NM or greater elsewhere in the Offshore Area.

Testing events using aircraft in the Offshore Area under Alternative 1 would not affect access to U&A fishing grounds. As part of the consultation effort during preparation of the 2015 NWTT Final EIS/OEIS, the Navy engaged in consultation with tribes that have U&A fishing grounds that overlap the Quinault Range Site to exchange range and fishing schedule information to de-conflict schedules where possible. This exchange of schedule information continues to occur.

Under Alternative 1, some new activities would occur in the Inland Waters portion of the Study Area such as at-sea sonar testing and non-explosive mine countermeasure and neutralization (see Tables 2.5-2 and 2.5-3). When required to accomplish a test safely and efficiently, the Navy may restrict marine traffic and request the USCG to issue notices to mariners (NTMs). Restrictions placed on marine traffic during testing activities in Inland Waters under the Alternative 1 could temporarily impede tribal access to portions of their U&A fishing grounds. Although these restrictions would temporarily impact U&A fishing grounds, information exchange between the tribes and Navy currently helps to ensure schedules are de-conflicted where possible, and they will continue to coordinate to de-conflict schedules where possible.

The Western Behm Canal is within the Ketchikan Nonsubsistence Use Area (Alaska Department of Fish and Game, 2011; Alaska Department of Fish and Game Division of Subsistence, 1992). The designation as a Nonsubsistence Use Area recognized that the location was not used for subsistence activities, including the hunting of seals and sea otters, by Alaska Natives (Alaska Department of Fish and Game Division of Subsistence, 1992). The renewal of that original designation in 2011 (Alaska Department of Fish and Game Division of Subsistence, 2011) reaffirmed that there was no subsistence use of resources in the Western Behm Canal by both Alaska Native and non-Native fishermen or hunters. Because traditional resources in the Western Behm Canal were not fished, harvested, or hunted and are now not available for subsistence uses by Alaska Native tribes, no impact on Alaska Native accessibility to traditional fishing areas would occur as a result of Navy's testing activities. Additionally, there would be no injury or mortality to fish or marine mammals resulting from Navy activities in Western Behm Canal and thus there would be no impact to use of these resources by Alaska Natives in subsistence harvest. No concern regarding tribal fisheries or the tribes' ability to harvest harbor seal was mentioned during a face-to-face meeting. No responses from the tribes have been received to the Navy's correspondence on the availability of marine mammals for subsistence use.

**3.11.2.1.1.2 Impacts from Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas Under Alternative 2**

**Impacts from Impeding Access to U&A Fishing Grounds or Traditional Fishing Areas Under Alternative 2 for Training Activities**

Under Alternative 2, the number of proposed training activities in the Offshore Area and Inland Waters would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Table 2.5-1), and in some cases vary slightly from the number of activities proposed under Alternative 1. Given that the activities would be conducted in the same areas as described in the 2015 analysis, and that the number of training activities would not change significantly, the analysis and impact conclusions from the 2015 NWTT Final EIS/OEIS remains valid. Therefore, Navy training activities in the Offshore Area under Alternative 2 are not likely to impede access to U&A fishing grounds except in rare instances where a vessel attempts to enter an established safety zone during ongoing activities or if it approaches too close to a Navy vessel (33 CFR 165).

Impacts on U&A access in the Inland Waters as a result of the training activities under Alternative 2 would be the same as described under Alternative 1.

**Impacts from Impeding Access to U&A Fishing Grounds or Traditional Fishing Areas Under Alternative 2 for Testing Activities**

Under Alternative 2, the number of proposed testing activities in the Offshore Area, Inland Waters, and Western Behm Canal would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Table 2.5-2 and Table 2.5-3), but would not change from the number of activities proposed under Alternative 1. Given that the activities would be conducted in the same areas as described in the 2015 analysis, and that the number of training activities would not change significantly, the analysis and impact conclusions from the 2015 NWTT Final EIS/OEIS remains valid.

Impacts on U&A access in the Offshore Area, Inland Waters, and Western Behm Canal as a result of testing activities under Alternative 2 would be the same as described under Alternative 1.

**3.11.2.1.1.3 Impacts from Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas Under the No Action Alternative**

Under the No Action Alternative, the Navy would not conduct proposed at-sea training and testing activities in the Study Area. Therefore, existing environmental conditions would either remain unchanged or would improve slightly after cessation of ongoing training and testing activities.

Impeding access to U&A fishing grounds or traditional fishing areas by Navy training and testing activities would not occur in the Offshore Area, Inland Waters, or Western Behm Canal. Therefore, existing U&A fishing grounds or traditional fishing area access would either remain unchanged or would improve slightly after cessation of ongoing at-sea training and testing activities.

**3.11.2.2 Changes in the Availability of Marine Resources or Habitat**

**3.11.2.2.1 Impacts from Changes in the Availability of Marine Resources or Habitat**

As described in the 2015 NWTT Final EIS/OEIS, the availability and health of marine resources is a concern for tribes with U&A fishing grounds in the Study Area, as well as those with U&A fishing grounds in inland areas outside the Study Area. In many cases, the main traditional resources harvested in these inland U&A fishing grounds are species such as shellfish, salmon, steelhead, or sturgeon that complete a portion of their life-cycle in marine environments. The availability of harvested traditional resource species could be affected if training and testing activities resulted in the following issues:

- A measurable reduction in a population or stock caused by direct impacts such as mortality or indirect impacts on water quality and habitat.
- Bioaccumulation of contaminants to levels where fish or shellfish would be unhealthy to consume.
- Mobile species avoiding U&A fishing grounds or altering their migratory patterns in response to disturbances.

When resource population levels dip, it becomes more likely that the tribal and state co-managers will close a fishery to harvest, reduce the duration of open seasons, or reduce the catch quota. Furthermore, when there is less fish, more effort and time must be expended to catch the same number of fishes. Where fish populations are low, greater effort means more commercial fishermen may give up fishing as their main source of income.

**Impacts from Changes in the Availability of Marine Resources or Habitat Under Alternative 1, Alternative 2, and the No Action Alternative for Training and Testing**

In this Supplemental, the Navy has analyzed potential impacts of Alternative 1, Alternative 2, and the No Action Alternative on resources harvested by tribes and Alaska Natives and associated habitat in the following sections of this Supplemental: 3.1 (Sediments and Water Quality), 3.3 (Marine Habitats), 3.4 (Marine Mammals), 3.7 (Marine Vegetation), 3.8 (Marine Invertebrates), and 3.9 (Fishes). Based on the analyses in these sections, the Proposed Action in the NWTT Inland and Offshore portions of the Study Area could directly affect individuals of some species of fish harvested by tribes, including mortality in a relatively small number of individuals. However, there would be no population- or stock-level impacts and there would be no measurable change in availability. Impacts on water quality and habitat would be localized and negligible, and would not be expected to affect availability of resources for harvest by tribes and Alaska Natives. The Proposed Action is not expected to contribute to bioaccumulation in fish and shellfish species harvested by the tribes based on the types and quantities of potential contaminants released and their fate and transport in the environment. Disturbances associated with the Proposed Action would be intermittent, of short duration, and widely dispersed, and are not expected to cause harvested species to avoid U&A fishing grounds or alter their migratory patterns.

Chapter 5 (Mitigation) describes protective measures the Navy implements within the Study Area. Although some of the measures specifically address species listed under the Endangered Species Act, many of them would also benefit species harvested by tribes and Alaska Natives.

The Proposed Action is not expected to have a measurable effect on the availability of marine resources for harvest by tribes or Alaska Natives given there is no mortality or injury to any marine resources expected from testing activities in Western Behm Canal, and that the Ketchikan Nonsubsistence Use Area surrounding the Southeast Alaska Acoustic Measurement Facility and the Western Behm Canal is not a place where subsistence use or subsistence harvest occurs (Alaska Department of Fish and Game, 2011).

**3.11.2.3 Loss of Fishing Gear**

**3.11.2.3.1 Impacts from Loss of Fishing Gear**

As discussed in Section 3.11.2.1 (Impeding Access to Usual and Accustomed Fishing Grounds or Traditional Fishing Areas), tribal fishing activities and Navy training and testing activities occur in co-use areas in the Inland Waters portion of the Study Area and in portions of the Offshore Area located off the coast of Washington. Consequently, the potential exists for interactions between naval vessels and equipment and tribal fishing gear. Loss or damage to gear is a concern for tribal fishermen because it can result in lost fishing opportunities and increase the cost of fishing, which could ultimately reduce harvest and income.

The 2015 NWTT Final EIS/OEIS describes the types of fishing gear used in the Study Area, and states that any gear that is designed to be fished unattended, either in the water column or on the bottom (e.g., gillnets, longlines, pots), would be most susceptible to snagging by a vessel or mobile in-water device. However, tribal fishermen mark their gear in accordance with fishing regulations and the Navy uses standard navigational practices to avoid potential interactions with fixed gear. In addition, the Navy would coordinate with the USCG to issue NTMs that advise Tribal Fisheries Enforcement Officers on locations of planned training and testing activities when the activity would involve a potential hazard to navigation. Activities based from a range craft with full maneuverability would not require an NTM. Interactions between mobile fishing gear such as a trawl (i.e., a net towed by a vessel along the bottom



or in the water column) and naval vessels is unlikely because the vessels involved would avoid each other. Interactions between mobile gear and a fixed in-water device such as testing equipment would also be unlikely because fixed devices would be clearly marked on the surface with a buoy. These practices have not changed; therefore, the conclusions from the 2015 NWTT Final EIS/OEIS remain valid.

As discussed in the 2015 NWTT Final EIS/OEIS, mobile fish gear located on or near the bottom could encounter military expended materials that the Navy would be unable to recover. These items are typically small, constructed of soft materials (such as target cardboard boxes or tethered target balloons), or intentionally designed to sink to the bottom after serving their purpose (e.g., sonobuoys), so they would not represent an entanglement risk to fishing gear. Military expended materials used in the Study Area have not changed; therefore, the conclusions from the 2015 NWTT Final EIS/OEIS analysis remain valid.

As discussed in Section 3.11.1.1 (Government-to-Government Consultation) of this Supplemental, the Navy and several tribes with U&A fishing grounds in the Study Area engaged in ongoing government-to-government consultation. The potential for interactions between tribal fishing gear and naval vessels and equipment is a topic of mutual interest addressed through the consultation process. As discussed in Section 3.11.2.1 (Impeding Access to U&A Fishing Grounds or Traditional Fishing Areas), several tribes and the Navy have implemented or are continuing formal communication procedures to de-conflict schedules where possible. These communications, in addition to standard NTMs issued by USCG, help to avoid and minimize the potential for lost or damaged tribal fishing gear associated with Navy training and testing activities. Any claims for loss or damage to fishing gear related to Navy activities are addressed through the Navy's claims adjudication process<sup>1</sup>.

#### **3.11.2.3.1.1 Impacts from Loss of Fishing Gear Under Alternative 1**

##### **Impacts from Loss of Fishing Gear Under Alternative 1 for Training Activities**

The Navy normally has the ability to avoid areas that are actively being used by other vessels, which reduces the potential to encounter and damage fishing gear in the Offshore Area. The amount of some military expended material items would increase and some would decrease under Alternative 1, although not by a significant amount, and not with materials that are large enough to cause a loss of fishing gear (see Table 2.5-1). Therefore, as discussed and concluded in the 2015 NWTT Final EIS/OEIS, tribal fishermen using bottom trawls may encounter these materials, but the probability would remain low. Damage to fishing gear from Navy training activities in the Offshore Area would be rare under Alternative 1.

In the Inland Waters, loss or damage to tribal fishing gear could reduce fishing opportunities while the gear is being replaced or repaired, and could increase the amount of effort and resources required to catch the same amount of fish. The USCG Maritime Force Protection Unit would continue to provide notification of locations of planned training activities to Tribal Fisheries Enforcement Officers. Information exchange between the tribes and the Navy helps ensure schedules are de-conflicted when possible.

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<sup>1</sup> Information on admiralty claims can be found at the Navy Judge Advocate General's Corps website: [http://www.jag.navy.mil/organization/code\\_11.htm](http://www.jag.navy.mil/organization/code_11.htm).

**Impacts from Loss of Fishing Gear Under Alternative 1 for Testing Activities**

As discussed under training activities, the Navy normally has the ability to avoid areas that are actively being used by other vessels, which reduces the potential to encounter and damage fishing gear in the Offshore Area. The number of some military expended material would increase under Alternative 1, however in some cases military expended materials from testing activities would decrease. Therefore, as discussed and concluded in the 2015 NWTT Final EIS/OEIS, tribal fishermen using bottom trawls may encounter these materials, but the probability would remain low. Damage to fishing gear from Navy testing activities in the Offshore Area would be rare under Alternative 1.

Under Alternative 1, the Navy is retaining the Carr Inlet Operating Area (OPAREA) and infrequent operational and acoustic research studies could be conducted in the area under Alternative 1. As discussed in the 2015 NWTT Final EIS/OEIS, the nature of activity and the in-water infrastructure at Carr Inlet OPAREA has changed since the dis-establishment of the shore lab in 2009. Fixed buoys and hydrophones are no longer in place. Use of this area under Alternative 1 may include temporary placement of underwater testing devices. Appropriate safety procedures and temporary marine traffic restrictions would be used to avoid interactions with fishing gear. Notifications would continue to be published in local newspapers and in the local USCG NTM if the Navy plans testing activities in the Carr Inlet OPAREA. The Navy would coordinate with the USCG to issue NTMs that advise Tribal Fisheries Enforcement Officers on locations of planned testing activities when the activity would involve a potential hazard to navigation. Activities based from a range craft with full maneuverability would not require an NTM. Information exchange between the tribes and the Navy helps ensure schedules are de-conflicted when possible.

Pierside sonar and acoustic testing would be performed under Alternative 1 at Naval Base Kitsap Bremerton in Sinclair Inlet, Naval Base Kitsap Bangor Waterfront in Hood Canal, and Naval Station Everett. Existing security restrictions prevent unapproved access at Navy pierside locations; therefore, fishing gear would not be affected by these activities.

As discussed in the 2015 NWTT Final EIS/OEIS, most of the materials and items used during testing are recovered after use in the Inland Waters. Military expended materials could present a risk to fishing gear located on the bottom, but the probability of encountering these items would be low. Standard procedures used to ensure safety, security, and testing data integrity; and procedures for communicating with tribes that have U&A fishing grounds in testing areas would continue to be implemented under Alternative 1 and would minimize the risk of fishing gear damage. Implementing these procedures would make damage to fishing gear from Navy testing activities in Inland Waters rare under Alternative 1.

The Western Behm Canal is within the Ketchikan Nonsubsistence Use Area (Alaska Department of Fish and Game, 2011), which has been identified as a place where subsistence uses of resources in the Western Behm Canal by both Alaska Native and non-Native fishermen does not occur. Because the Western Behm Canal is a Nonsubsistence Use Area, loss or damage to Alaska Native fishing equipment would not occur as a result of testing activities resulting in vessel or in-water device strikes. No testing activities resulting in the settling of military expended materials occur in the Western Behm Canal.

**3.11.2.3.1.2 Impacts from Loss of Fishing Gear Under Alternative 2**

**Impacts from Loss of Fishing Gear Under Alternative 2 for Training Activities**

Under Alternative 2, the number of proposed training activities in the Offshore Area and Inland Waters would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Table 2.5-1),

and in some cases vary slightly from the number of activities proposed under Alternative 1. Given that the activities would be conducted in the same areas as described in the 2015 analysis, and that the number of training activities would not change significantly, the analysis and impact conclusions from the 2015 NWTT Final EIS/OEIS remains valid. Therefore, the analysis presented for training activities in the Offshore Area under Alternative 1 also applies to Alternative 2. Damage to fishing gear from Navy training activities in the Offshore Area would be rare under Alternative 2.

Training activities under Alternative 2 would be the same for the Inland Waters as described in the Offshore Area (see Table 2.5-1). Therefore, the analysis presented for training activities in Inland Water under Alternative 1 also applies to Alternative 2. The USCG Maritime Force Protection Unit would provide notification of the location of planned training events to Tribal Fisheries Enforcement Officers. Information exchange between the tribes and the Navy helps ensure schedules are de-conflicted when possible.

#### **Impacts from Loss of Fishing Gear Under Alternative 2 for Testing Activities**

Under Alternative 2, the number of proposed testing activities in the Offshore Area, Inland Waters, and Western Behm Canal would change from the number of activities proposed in the 2015 NWTT Final EIS/OEIS (see Tables 2.5-2 and 2.5-3), and in some cases vary slightly from the number of activities proposed under Alternative 1. In the Offshore Area, as discussed for Alternative 1, the change in testing activity is not expected to increase damage to fishing gear and the testing of explosive torpedoes would be conducted greater than 50 NM off the coast of Washington, outside of U&A fishing grounds. The Navy normally has the ability to avoid areas that are actively being used by other vessels, which reduces the potential to encounter and damage fishing gear in the Offshore Area. Under Alternative 2, the number of military expended material items, including sonobuoys, chaff, and flares, would not change significantly from Alternative 1. Therefore, as discussed and concluded in the 2015 NWTT Final EIS/OEIS, tribal fishermen using bottom trawls may encounter these materials, but the probability would remain low. Damage to fishing gear from Navy testing activities in the Offshore Area would be rare under Alternative 2.

In the Inland Waters, use of the Carr Inlet OPAREA may include temporary placement of underwater testing devices. Appropriate safety procedures and temporary marine traffic restrictions would be used to avoid interactions with fishing gear. Existing security restrictions prevent unapproved access at Navy pierside locations; therefore, fishing gear would not be affected by these activities. Military expended materials could present a risk to gear used to fish on the bottom due to snagging of fishing line, snagging of nets, or tangling of other bottom traps. The probability of encountering military expended materials that would impact fishing gear would be low. Standard procedures used to ensure safety, security, and testing data integrity; and procedures for communicating with tribes that have U&A fishing grounds in testing areas would continue to be implemented under Alternative 2 and would minimize the risk of fishing gear damage. Damage to fishing gear from Navy testing activities in Inland Waters is expected to be rare under Alternative 2.

Testing activities under Alternative 2 would remain the same as discussed under Alternative 1 in the Western Behm Canal and therefore would have no impact on loss of fishing gear in the area under Alternative 2.

### **3.11.2.3.1.3 Impacts from Loss of Fishing Gear Under the No Action Alternative**

Under the No Action Alternative, the Navy would not conduct proposed at-sea training and testing activities in the Study Area. Therefore, existing environmental conditions would either remain unchanged or would improve slightly after cessation of ongoing training and testing activities.

Loss of fishing gear due to Navy activities would not occur in the Offshore Area, Inland Waters, or Western Behm Canal. Military expended materials may still remain in the water column or on the bottom of the seafloor in the Offshore Area, Inland Waters, or Western Behm Canal after cessation of training and testing at-sea activities, but cessation would not measurably improve the condition of the environment throughout the Study Area because the impacts are so minimal under Alternatives 1 or 2. Therefore, American Indian and Alaska Natives fishing gear retention rates would either remain unchanged or would improve slightly after cessation of ongoing at-sea training and testing activities.

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