# Šu·yu·ł Borderlands: a Transnational Kin Study of Makah-Fish relations of ƛ̓ušu·ʔa· & łułubałid

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## Abstract

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For thousands of years the fishing banks of ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile or La Perouse) have sustained the multi-species relationships of Makah peoples, especially with šu·yu·ɬ ("shoo-yoolth") or Pacific halibut (*Hippoglossus stenolepis*). As key subsistence and commercial fisheries, both ƛušu·ʔa· and łułubałid have contributed to Makah food sovereignty, conservation practices, and geo-political connectivity. Despite thousands of years of Indigenous borderland protocols and fishery self-governance, international agreements and laws establishing national marine borders of the U.S. and Canada have displaced Makah peoples from Swiftsure and 40 mile banks. Today, these imperial border formations over-determine the management of marine spaces through mechanisms such as the extension of the international border through exclusive economic zones (EEZs). Since the early 1900s, the Makah Tribe has strategically utilized the court and political system to regain recognition of many of their treaty-reserved

fishing rights. However, efforts to regain ƛ̓ušu·ʔa· and łułubałid, have been blocked by the US and Canadian governments by enclosing the banks for exclusive non-native sportfishing uses, conservation, and other practices of settler border enforcement. Informed by critical Indigenous and border studies, this thesis crafts a "kin study" of the human-fish relations, knitting together ethnography, semi-structured interviews, historical archival data, publicly available government reports, policy and law to document the history of Makah efforts to restore access to Pacific halibut fishing and the significance of ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile or La Perouse).

# Introduction

Off the continental shelf, deep within enigmatic Pacific waters, life begins. Below the sunlit and twilight zones, the bathypelagic midnight zone cradles baby šu·yu·ł.[1] After fertilization, the baby eggs become buoyant, traveling up the water column from depths of 300-1,500 ft, rising to greet the sky. For two weeks they float amidst ocean waves where they soon hatch, born swimming side to side like a salmon with one eye on either side of their scaly heads. Until one day, while riding ocean currents, six-month-old youngsters start to undergo a metamorphosis. Their left eye journeys over their snout, onto the right side of their body. The right side of their bodies develop chromophoric colors that allow the halibut to camouflage within the speckled substrates of the ocean floor. Counter shaded, their left side or belly becomes smooth, losing color; so as to resemble the sky to predators below when swimming. Slowly, their bodies flatten into a diamond shape: extending their pectoral fins to resemble wings and growing a distinct crescent moon shaped tail. All of which signal their transition back to the ocean floor. Šu·yu·ł are classified as demersal groundfish as they will live on or near the seafloor for the rest of their lives.[2]

Once two years old the šu·yu·ł begin their migration counterclockwise, counter to the ocean currents regime that carried them as babies. Traveling the continental shelf, they get stronger by eating a wide range of "fishes, cephalopods, and smaller invertebrates"

[1] Šu·yu·ł is the name for pacific halibut in Qʷi·qʷi·diččaq, the Makah language. Šu·yu·ł ("shoo-yoolth") or *Hippoglossus stenolepis* are names belonging to the fish commonly known as Pacific Halibut. The scientific name is rooted in Greek etymology of hippos (horse) and glossa (tongue), which was first proposed in 1904 by Russian scientist P. J. Schmidt, who distinguished Pacific halibut from its Atlantic cousin (*Hippoglossus hippoglossus*) due to the Pacific Halibut's scales, pectoral fin and body shape (IPHC, 2014).

[2] This account of Pacific halibut ecology is adapted from IPHC's 2014 Technical Report No. 59 on "The Pacific Halibut: Biology, Fishery, and Management."

(Moukhametov, 2008). Slowly, šu·yu·ł reach reproductive maturity. Female Pacific halibut reach maturity at around twelve years old whereas males reach this maturity at around eight. While slow to grow, they can reach gargantuan sizes of over eight feet long (from nose to tail) and weigh heavier than 500 pounds (IPHC, 2014).

For thousands of years, šu·yu·ł and Makah peoples maintained lifeways together. As border-dwellers, šu·yu·ł move amidst Indigenous borderlands, refusing to recognize colonial notions of borders as they traverse the canyons and mountains of the continental shelf and swim between the ocean's surface and depths. The relationships between humans and fish that dwell within the borderlands can "radically problematise the idealized homogeneous nation-state form and offer the basis for rethinking political community beyond the old coordinates of the modern state/state system" (Parker & Vaughn-Williams, 2012). As key subsistence and commercial fisheries, both ƛ̓ušu·ʔa· and łułubałid have contributed to Makah food sovereignty, conservation practices, and geo-political connectivity. Despite thousands of years of Indigenous borderland protocols and fishery self-governance, international agreements and laws establishing national marine borders of the U.S. and Canada have displaced Makah peoples from Swiftsure and 40 mile banks. Today, these imperial border formations over-determine the management of marine spaces through mechanisms such as the extension of the international border through exclusive economic zones (EEZs). Since the early 1900s, the Makah Tribe has strategically utilized the court and political system to regain recognition of many of their treaty-reserved fishing rights. However, efforts to regain ƛ̓ušu·ʔa· and łułubałid, have been blocked by the US and Canadian governments by enclosing the banks for exclusive non-native sportfishing uses, conservation, and other practices of settler border enforcement. Informed by critical Indigenous and border studies, this thesis crafts a "kin study" of the human-fish relations, knitting together ethnography,

semi-structured interviews, historical archival data, publicly available government reports, policy and law to documents the history of Makah efforts to restore access to Pacific halibut fishing and the significance of ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile or La Perouse).

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My name is Isabel Lavallee (Izzi/iz). I am a mixed Mexican-American, Irish-American white-passing graduate student at the School of Marine and Environmental Affairs. I honor my ancestors from the Chihuahuan desert, Mexican-U.S. borderlands and my ancestors from Europe, especially County Sligo in Western Ireland. I came to this work through relationships: relationships to my partner and his family, but also through my deep committed relationships to the water, non-human peoples, and a curious passion to understand borders and diverse borderlands. I understand borders, especially imperial borders (which I expand upon in the theoretical framework), as power structures. These borders are neither fixed nor natural; their formation requires dispossession and they function through the selective mobility of peoples, animals and entities such as water (Walia, 2021; Simpson L., 2017).

The U.S.-Mexico border severed much of my Mexican-American family's identity, access to land, water, kin relations, and increased exposure to racial violences. In addition, many non-human peoples have and continue to suffer as a result of imperial border policies, including amid the wetlands ecologies of the Rio Grande (Río Bravo del Norte de México) where more than half of the river's native fish are now threatened to extinction or have already gone (Edwards et al., 2002). Through such interconnected relations, I *feel* imperial borders as a wound. From these wounds, I derive a deep passion to better understand the socio-cultural impacts of borderland ecologies at both personal and political scales, a desire which continues to inform the direction of my work.

This research project and thesis have their origins in my ongoing relationships and responsibilities to people and place. These begin with my committed interpersonal relationship with Reuben Martinez (a Makah Tribal member) who is descended from the Bowechop and Swan families of Neah Bay. Between April and July 2021, during the Covid-19 pandemic, Reuben and I moved to Neah Bay to live with Reuben's Grandma Tanya. Tanya is an active community member and teacher in Neah Bay, who has been living there for over 40 years. While not a Tribal member herself, all seven of her children belong to the Makah Indian Tribe. It was the time spent living with Grandma Tanya, her household, and extended family that gave rise to the central questions, concerns, and approaches of this project. Working as a remote graduate student during a time of isolation, I set out to see if I could center my thesis work with the community where I was located. The new social relations and responsibilities I was building in Neah Bay, would eventually lead to formal collaborations with Makah Tribal staff and the collaborative process which has given shape to this thesis.

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Brimming with bald eagles patiently scanning the marina for breakfast, a tall cottonwood tree overlooks Canoe Street where Grandma Tanya's house stands. Just like my previous mornings in Neah Bay, I awoke to the low rumble of sea lions, rez dogs, and youth revving their ATVs. Undercaffeinated, I went to fill my favorite of Grandma Tanya's coffee mugs with Folgers and begin another day of virtual graduate school on Zoom. A welcome break in the clouds drew me outside, the ground still wet from that night's spring rain. I was just beginning to nest at the table next to the cherry tree, when a car rolled up. This was not unusual because Grandma Tanya's house had, allegedly, the best wifi in all of the bay. During the pandemic, her home became a frequent hot spot for family members.

This time, however, I didn't recognize the car, or the person who slowly emerged. He asked me if I knew where he could find his granddaughter and great-grandkid, who were visiting from Seattle. Despite a hunched-posture, Jules Ides is quite tall and lean. He is a grandpa to many, including to some of Tanya's children and grandchildren. Jules also taught Reuben's Uncle Neil how to fish. While his hearing is poor, we spoke for a while, and the conversation became pivotal in guiding my thesis project.

We spoke at length about the changes Jules had seen–with his own eyes– about fishing in Neah Bay. As we did, the past and present seemed to ebb and flow like the tide. Jules paused periodically to peer out towards the bay through dewey cataracts framed by decades of saltwater wrinkles. A Makah elder and fisherman, Jules recently celebrated his 92nd birthday. During our conversation, one key change on fishing stood out. Jules shared that Swiftsure and 40 mile banks are highly productive fishing grounds and are coveted traditional territories of Makah Tribe, yet they are no longer accessible due to the Canada-US border and the creation and enforcement of both countries' Exclusive Economic Zones, or EEZs.

Around the same time, while at the Makah Cultural and Research Center, I was introduced to Dr. Josh Reid's book, *The Sea is My Country: The Maritime World of the Makahs*. Reading this book, I began to learn about a range of international policies impacting sites of coastal marine space including access to critical halibut fishing grounds situated within the ancestral waters of Makah Tribe (Reid, 2015). Alarmingly I learned that Swiftsure and 40 mile banks were made accessible to sport fishers from both the U.S. and Canada in the late 1970s, a majority of whom are white and non-native, in what-is-now Canada (Reid, 2015, p. 266). These facts, combined with what I'd learned from Jules, impressed on me how severely the border making practices of settler governments and international institutions have disrupted Indigenous

food sovereignty and self-governance of marine territories along the Northwest coast. With this realization, I began building relationships with Makah staff to develop a formal research process to guide my thesis project.

# Methodology

In May of 2021, Tanya introduced me to Janine Ledford, Director of the Makah Cultural and Research Center (MCRC), who I began consulting with about the possibility of a thesis topic. In the months and years since, I have built formal relationships with MCRC, Makah Ocean Policy Workgroup (MOPW) and Makah Fisheries who have all contributed to co-design the project. Over the past two years, December (2021) through March (2023), I participated in discussions and the development of research protocols with both the Makah Ocean Policy Workgroup (MOPW) and the Makah Cultural and Research Center (MCRC). Under the guidance and recommendation from staff within MOPW and the MCRC, I began to research the historical and political factors affecting Makah's access to Pacific halibut fishing banks including the re-establishment of the Makah halibut fishery. Through a series of meetings, we co-designed a two-pronged project to support Makah priorities while also being aligned with my research interests, skills, and graduate program expectations. In reciprocity for permissions to participate in this project, I am drafting two distinct documents: one will be for the internal uses of MOPW and MCRC and the other for my graduate program. After this thesis is written, I will continue to transcribe additional interviews and construct a full report to be shared with the Makah Tribe for their internal purposes. Therefore, this two-pronged collaboration is far from over.

To date, this work has included literature reviews and archival research focused on legal documents and government reports, along with fourteen transcripts from MCRC interviews with Makah citizens in 2018. It also incorporates several vignettes from my own engaged ethnography

and semi-structured interviews with both Tribal and non-Tribal experts on Makah fisheries. Interviews took place over video conference and on the phone during the COVID-19 pandemic and focused on core themes I identified within historical and archival data. Each conversation started with carefully constructed questions tailored to that person's expertise on fishing banks, food sovereignty, and political processes. Examples of these questions and prompts include: *What does halibut mean to you? How has Makah halibut fishing changed over the decades and centuries? Where did you fish back in the day? What would you like future generations of Makah peoples to know about halibut, the re-establishment process, and/or Makah fisheries? Are there any stories you'd like to share regarding fishing in ancestral territories?* As the process unfolded, my interviewees tended to drive the conversation and speak what was on their heart.

Notably, I have not been able to speak with several of the individuals whom I was directed to interview by the MCRC and MOPW, and who have played a central role in Makah Halibut policy and knowledge practices. I wish to acknowledge them here: the late Dale Johnson, an elder and Makah fisherman, was instrumental in the Makah Halibut fishery re-establishment, whose name was listed on many of the IPHC reports during the re-establishment process. In addition, while Makah elder, Jules Ides has greatly informed my thinking and he has been willing to speak further, health considerations kept me from recording a formal follow up interview with him.

Finally, each aspect of this journey of inquiry, has been informed by the scholarship of contemporary Indigenous Studies to center knowledge production grounded in relational obligations and responsibilities, while attempting to refuse the extractive tendencies of "research" as it has been historically practiced in the western academy. Historically, the majority of western colonial research practices consist of researchers entering Indigenous communities as

"outsiders" and performing studies *on* Indigenous peoples "for the purpose of learning about certain aspects of their lives that they find personally interesting or intriguing or that may serve colonial processes" (Smith, 2021; Gaudry, 2011). As a kin study analysis, this thesis paper is informed by Indigenous studies scholars who encourage a praxis (or theory in practice and action) called "kin studies" as opposed to case studies: "against the ubiquity of the case-study approach, we propose a method we call "kin study," which *invites more embedded, expansive, material, and respectful relations to people and lands*" (Kanngieser & Todd, 2020). Within this analysis, I trace pools and lineages of knowledge that constitute the kinship between šu ̓yu ɬ and Makah peoples, in dialogue with the fields of critical border studies and Indigenous studies. Šu·yu·ɬ Ecologies within ƛ̓ušu ʔa ̓ & łułubałid.

Throughout the thesis process, I seek to center relational accountability where the process is just as important, if not more important, than the outcome. Shawn Wilson's foundational book, *Research is Ceremony,* asserts that research "needs to be based in a community context (be relational) and has to demonstrate respect, reciprocity, and responsibility (be accountable as it is put into action)" (Wilson, 2008, p. 99). Here, it is imperative to distinguish between multiple kinds of accountability: those of my personal relationships with Makah Tribal members, including friends and family, and my formal professional relationships with MOPW, MCRC and other Makah Tribal Government staff. Ultimately, this thesis reflects my personal thoughts and position as a graduate student situated at the University of Washington and by no means reflects the official opinions of the Makah Tribal government or the entirety of those diverse perspectives held by Makah Tribal members themselves.

# Theoretical Framework

From Imperial Borders to Indigenous Borderlands

As both an empirical and political project, critical border studies seeks to problematize the permanence of borders, rethink border politics and present alternative border imaginaries (Parker & Vaughan-Williams, 2012). Such inquiries identify the historical contingency of borders– as world-making power structures– and critique the widely accepted ideology that borders are fixed, natural and immovable (Walia, 2021; Salter, 2012; Parker & Vaughan-Williams, 2012). Critical border studies has been shaped by Chicano/Latinidades studies, migrant rights activists, campaigns against gendered violence, international labor organizing, and ongoing Indigenous land defense movements (Walia, 2021; Walia, 2013).

In "*Border and Rule"* Harsha Walia outlines four main border governance strategies that produce bordering regimes: exclusion, territorial diffusion, commodified inclusion, and discursive control (Walia, 2021). Walia describes borders as "a key method[s] of imperial state formation, hierarchical social ordering, labor control, and xenophobic nationalism" (Walia, 2021). For example, she argues that the so-called alleged "border crisis" alleged between the U.S. and Mexico is in truth, a crisis of dispossession and immobility, emphasizing how imperial borders disrupt"the freedom to stay and the freedom to move [which] are revolutionary corollaries refusing imperial bordered sovereignties, with home as our shared horizon" (Walia, 2021, p. 216). Citing the construction of the US-Mexico border wall which severs Tohono O'odham access to cross-border ceremonial sites, Walia quotes Alex Soto (Tohono O'odham) who was arrested for occupying US border patrol offices and declared, "We have always honored freedom of movement" (Walia, 2013, p. 4).

Other contemporary critiques attend to the ways in which borders are mobilized in both settler colonial and imperial projects. International borders such as the United States and Canadian border are disruptive to Indigenous homelands and reify white settler-identities (Simpson, 2014; Walia, 2013). Audra Simpson's research, for example, underscores how the U.S.-Canada border itself disrupts Mohawk spatial and temporal relationships as a geopolitical boundary that "severs" Indigenous territoriality (Simpson A., 2014). The Red Nation, an anti-colonial coalition of Native peoples, describes the economic and ideological foundations behind the formation of imperial borders, where "exclusion based on colonial occupation and 'discovery' was the basis of European-style sovereignty that divided Indigenous land around the world with borders;" since the Papal Doctrine of Discovery in 1492, "borders have been used to control and restrict the movement of certain populations of people but free up and allow the movement of capital (2021, p. 66-67). I use the concept of "imperial bordering practices" to describe the historical origins and ongoing maintenance of international borders, such as the 49th Parallel, as expansionist processes intended to create and uphold settler colonial projects.

As scholarly and activist criticism of imperial borders is increasing, so too is popular attention to fluid marine borderlands. This is evidenced by the renaming of transnational waterways such as the *Salish Sea* within the Pacific Northwest of the United States and Southwest of Canada in the early 2000s. However, this environmental bioregionalism risks perpetuating a narrative of cultural homogeneity, excluding political and linguistic groups and ignoring specific Indigenous governance and lifeways, such as Northwest Coastal communities (Heasley, L., & Macfarlane, D. 2016; Tucker & Rose-Redwood, 2015). Other critical discourses, such as the calls for border abolition (Lock, 2022; Dubal, 2021; Cohen et, al., 2023) also risks

perpetuating colonial violence if they do not recognize the role of borders within Indigenous governance.

In contrast to the formation and maintenance of imperial and colonial borders, Indigenous borders and borderlands are developed and sustained through Indigenous relations to place and between humans and other-than-humans. In *A Line of Blood and Dirt: Creating the Canada-United States Border Across Indigenous Lands*, Benjamin Hoy describes ways in which particular Indigenous communities along the 49th parallel created political boundaries to distinguish places of hereditary ownership, exchange, and responsibility; wherein "communities could gain short-term permissions to use resources in another group's territory, but failure to honor the limitations that a group placed on these visits could lead to dire consequences" (Hoy, 2015., p. 18-19). In this way, Indigenous borders and borderland governance has persisted for thousands of years but "functioned differently from borderlands between empires and Native nations" in which, "relationships rested at the center of boundaries, identity, and who could access vital environmental gifts" (Jurss, 2021).

Melanie Yazzie "describes the ways in which her Diné peoples, and Indigenous peoples in general, have persisted through time with anti-colonial customs of "kinship making, citizenship and belonging" (Yazzie, 2022). Yazzie goes on to argue that these practices are inherently abolitionist, in addition to decolonial "because our bodies, the water, the land, and our animal relatives are so profoundly unfree, we must make kin to get free" (Yazzie, 2022, p. 10). By centering Indigenous peoples as the holders of an original relationship to land and kin-ning, Yazzie draws from a long line of Indigenous feminist scholarship to argue for an inter-nation-alist politic of refusal. Likewise, Audra Simpson describes how "kin and reciprocal relationships

extend throughout the fifteen other Iroquois reservations on either side of the border" (Simpson A., 2014).

Snohomish historian Joshua Reid utilizes borderland theory to describe the complex protocols and sociocultural networks forged through kinship, trade, and violence that bound people and places together throughout marine spaces from the mouth of the Columbia River to the northern tip of Vancouver Island and eastward into Puget Sound–a region he terms "the ča·di· (cha-dee) borderlands" (Reid, 2015, p. 11-14). The name for this Indigenous borderland emerged from the Makah name for Tatoosh Island (Ča·di·) as it "challenges the emerging Euro-American view on coastal waters as both a resource commons and an appropriate boundary line dividing colonial spaces" (Reid, 2015, p. 17). In 1788, Chief Tatoosh of the Makah peoples asserted these protocols when non-Native vessels entered into sovereign Makah borderlands. Captaining the *Felice Adventurer,* John Meares, a British Royal Navy revolutionary war veteran, attempted to sail through Makah-controlled waters on their voyage to explore Northwest Coastal territories. He was met by Chief Tatoosh who surrounded and boarded the vessel with his warriors dressed in sea otter pelts, weapons, and painted with red and black ochre (Reid, 2015). Chief Tatoosh made it clear to Meares that "you are now within the limits of his government, which extended a considerable way Southwest" (Reid, 2015, p. 19). Meares insulted Tatoosh with a small gift unbefitting Makah protocols, thus prompting Tatoosh to utilize his influence over the borderlands and prevent trade with Meares. In addition, Tatoosh led one hundred war canoes to encircle the *Felice,* inciting their rapid departure. However, Meares ignored Tatoosh's warnings. In less than two weeks, the *Felice* returned to Makah waters. A longboat set to explore from the *Felice* was met with an attack from Makah and Pacheedaht warriors, resulting in few remaining men forced to limp back to the *Felice* for refuge.

The story of Tatoosh's warning is powerful, as it explicates a counter-narrative to imperial borders of the Pacific Northwest Coast wherein marine-governance is wielded by Makah peoples within Indigenous borderlands. While the concept of "the ča·di· borderlands" helps to animate the shifting, interwoven mosaic of Indigenous sovereignties along the Northwest coast, this thesis will rely on the broader more neutral concept of "Indigenous borderlands," in an effort to de-center academic re-naming practices (Tucker & Rose-Redwood, 2015). Indigenous borderland governance is most-relevant as this paper further explores the story of marine fishing banks within ancestral Makah territories. These stories of Makah governance wielded within territoriality through protocol, kinship and reciprocal relations hold geopolitical significance across global Indigenous borderlands. Similarly, the Indigenous borderlands along the Northwest Coast require distinct protocols. Protocols are varied norms such as ceremony and etiquette that reflect the laws and responsibilities amidst peoples and places, but are not rigid or divisive like fixed imperial borders, rather, they allow for fluid cultural knowledge and resource exchange, in order to maintain kin relationships and responsibilities.

Food Sovereignty, Indigenous Resurgence, and Human-Fish relations

In this paper, I apply the concepts of food sovereignty and Indigenous resurgence to illustrate the significance of the human-fish relationships within Makah's ancestral marine borderlands. The term food sovereignty originated with Via Campesina, a global peasant movement, which came together in 1996 at a Conference in Tlaxcaca, Mexico to address disparities in control over food distribution and agricultural production regimes. Food sovereignty has been defined by the First Indigenous Peoples' Global Consultation on the Right to Food as "the right of Peoples to define their own policies and strategies for sustainable production, distribution, and consumption of food, with respect for their own cultures and their

own systems of managing natural resources and rural areas, and is considered to be a precondition for Food Security" (Declaration of Atitlan Guatemala, 2002, p. 2).

In 2006, the concept was further developed through a Working Group on Indigenous Food Sovereignty (WGIFS) which identified four key principles to Indigenize food sovereignty. Charlotte Coté (2022, p. 33) summarizes these principles in the following way:

> (1) Sacred sovereignty: food as a sacred gift from the creator.
>
> (2) Participatory: this is a call to action, whereby people have a responsibility to uphold and nurture healthy and interdependent relationships with the ecosystem that provides land, water, plants, and animals as food.
>
> (3) Self-determination: food sovereignty needs to be placed within a context of Indigenous self-determination with the freedom and ability to respond to community needs around food.
>
> (4) Policy: it provides a restorative framework for reconciling Indigenous food and cultural values with colonial laws and policies.

Furthermore, the First Indigenous Peoples' Global Consultation on the Right to Food declared that "...the denial of the Right to Food for Indigenous Peoples not only denies us our physical survival, but also denies us our social organization, our cultures, traditions, languages, spirituality, sovereignty, and total identity; it is a denial of our collective indigenous existence" (Declaration of Atitlan Guatemala, 2002, p. 2). This is a powerful declaration as it places the relationship between Indigenous peoples and foods within a rights-based lens and asserts that Indigenous foods are integral to Indigenous lifeways. Furthermore, this declaration asserts that a denial of the right to place-based foods, denies Indigenous existence because Indigeneity is inextricably tied to place and the relations therein.

Worldwide, Indigenous peoples practice food sovereignty as rights and responsibilities intimately tied to place. Describing Inuit human-fish relations in Paulatuuq, Northwest

Territories, Métis scholar Dr. Zoe Todd writes: “not only do fish ensure human survival a plentiful food source, they do so because human-fish relationships represent a host of social, cultural, and legal-governance principles that underpin life” (Todd, 2014, p. 218). Through her work, Todd illustrates how assertions of Indigenous duties, laws, and obligations in relation to fish are rooted in pragmatic reciprocity and relationality, relations which have the power to refract the logics of extraction and colonialism (Todd, 2017; 2014). Specific laws, social organizations, and protocols of place(s) produce embedded relations and kinship ties. Within Nuu-chah-nulth territories, hereditary chief Tom Mexsis Happynook describes how thousands-of-years-of-knowledge is imbued within obligations, laws, and responsibilities that inform protocol: “The environment is not a space of divisions but rather a space of relations, a place where cultural diversity and biodiversity are not separate but in fact need each other” (Cote, 2022, p. 9). This responsibility, relationality and connectivity is a guiding principle in Nuu-chah-nulth ontology expressed by the concept of hačatakma ćawaak, “everything is one or interconnected” (Cote, 2022, p. 8).

What’s important to recognize in these approaches is the central role that food plays in the enactment of the inherent sovereignty of diverse Indigenous peoples. Sarah Deer, Citizen of the Muscogee (Creek) Nation and University Distinguished Professor at the University of Kansas “conceive[s] of sovereignty as a description of self-determination” where the violation of sovereignty would be a wounding to the “deep, fundamental aspects of identity, aspects that will be described differently depending on cultural beliefs” (Deer, 2015, p.xv, xvi). As imperialism and settler-colonial projects continue to dispossess Indigenous peoples of their homelands, Indigenous governments and community members engage in a diversity of political approaches. These range from strategies of negotiation through “colonial entanglements” (Dennison 2017) or

the “politics of recognition” (Coulthard 2014) to the outright “refusal” (Simpson 2014) of colonial institutions and authority.

While the politics of recognition pursue Tribal rights and self-determination through the permission of settler governments and institutions, a politics of refusal would pursue inherent Indigenous sovereignty without such recognition and actively interrupt settler colonial projects Beyond recognition or refusal, Leanne Betasamosake Simpson describes has focused on the practice of “Indigenous resurgence,” which upholds those“Indigenous thought systems…[and] intelligence systems that are continually generated in relationship to place.” For Simpson, these land-based knowledge-practices can be the “seeds” for “the regeneration and reestablishment of Indigenous nations” (Simpson, 2017). Food sovereignty, therefore, can be described as a form of Indigenous resurgence through the human and food relationships that generate continuous obligations, laws, and kinship in relationship to place.

# Geography and Political Context

Makah Tribe, ƛ̓ušu·ʔa· and łułubałid

The Makah Tribe’s contemporary reservation and the ancestral Makah villages are located on the Northwestern-most point of what is now Washington State, however their marine territories extend far beyond. The traditional name of Makah peoples is Qʷidiččaʔatx̌, meaning “the people who live by the rocks and seagulls” while ‘Makah’ was a name given to Qʷidiččaʔatx̌ peoples meaning “people generous with food” in a neighboring Coast Salish language (Reid, 2015, p. xv; Makah Tribe, 2022). In 1855, Makah representatives negotiated with the United States government to develop the Treaty of Neah Bay, which defined the boundaries of Makah reservation and recognized lands and waters within the US national border.

However, Makahs are most-closely connected to the Nuu-chah-nulth and Northwest Coastal cultural lifeways through kinship ties which persist in what-is-now Vancouver Island, British Columbia on the Canadian side of the border. In Nuu-chah-nulth, Makahs are referred to as Kla-iz-zarts meaning "southerly people," a name which also carries the connotation of "outside, towards the sea" (Reid, 2015, p. 24). This carries significance as Makah Tribe maintains ancestral homelands, or hahuuɬi, that reflect marine based lifeways (Reid, 2015; Cote, 2022).

This project focuses on two critical halibut fishing locations within the Makah Tribe's ancestral territory: ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile Bank or La Perouse) which are located at the mouth of the Strait of Juan de Fuca, northwards off the coast of Vancouver Island near the continental shelf. Once under Indigenous governance and jurisdiction; today, these locations are under settler-colonial governance and jurisdiction, spaces which now reside along the U.S.-Canadian maritime borderlands (see: Reid, 2015, p. 212). Despite these changes, ƛ̓ušu·ʔa· and łułubałid continue to be of crucial importance to the Makah Tribe and Makah peoples.

The following sections explore the various political and policy formations that changed the governance of the ƛ̓ušu·ʔa·, łułubałid, and connected waterways along the U.S. Canada border, and Makah access to these critical halibut fishing grounds. Disruptions to Makah self-governance of ancestral marine territories have included the formation of an imperial border between the U.S. and Canada (1846-1872), treaty-making between Makah and U.S. governments (1855), and continue through a range of contemporary economic and management regimes and regulations. Current management structures ranging from national and international fisheries management councils, to the EEZ today dictate Pacific halibut regulation and delimit Makah fishing access in transnational marine space. The two šu·yu·ɬ and multi-species fishing grounds

of focus throughout this kin-study are ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile Bank or La Perouse). The names of these banks themselves relay Indigenous knowledge and the significance of their human-fish relationships. In the Makah language "ƛ̓ušu·ʔa· (kloo-shoo-ah) means "the dry place on the rocks" or "shallow place," indicating the shallow nature of this fishing bank while the Makah name for 40-mile or La Persouse bank is łułubałid (lthoo-lthoo-buh-lthihd) meaning "fish lying like boards on the surface of the ocean," a reference to šu·yu·ł behavior of feeding on smaller fish close to the surface at night" (Reid, 2015, p. 213).

Imperial Border Formation

European efforts to claim Indigenous Northwest coastal territories began in the 18th century from the Russian, Spanish, and British Empires. As Spain and Russia retracted their claims to the Pacific Northwest territories, newly emerging settler-colonial governments would scramble for jurisdiction to these lands and waterways (Walsh, 2014). Tension rose between the United States and British empires as the British demanded the international border to include the territories above the Columbia River for continued access to the navigable waterway. On the other hand, U.S. settlers demanded further northward expansion through the slogan "Fifty-four Forty or Fight!" After the annexation of Texas in 1845 and the U.S. invasion of Mexico in April 1846 and fearing a war on two fronts, the United States was eager to negotiate. They signed the Treaty of Oregon with the British Empire in 1846, establishing the international border between the United States and British North America at the 49th parallel (Hoy, 2021).

Conflict arose in the Pacific Northwest when the United States and British Empire struggled to determine which waterway would demarcate the border between the two settler-colonial nation states. During a time of heightened political tension during the U.S. Civil War, this struggle over territoriality resulted in three decades of negotiated conflict, as U.S. and British

forces both occupied the San Juan Islands in an attempt to claim these as their own – the so-called "Pig War." The international borderline was ultimately determined by German Emperor Kaiser Wilhelm in 1871 and finalized in 1872 within the waterways known as Haro Strait and the Strait of Juan de Fuca. This delineation was crucial for upholding British settler-colonial aspirations as it preserved Fort Victoria built in 1843 by the Hudson Bay Company on what became Vancouver Island, established as a British colony in 1849 (Hoy, 2021). This line remains today as the international border between the U.S. and Canada, a story of imperial border formation lasting 26 years, between 1846 and 1872. These whimsical negotiations between European Empires were conducted without connection, understanding, or concern for the geography or Indigenous governance of regional waterways (Hoy, 2021; Reid, 2015).

Treaty-making

With the imperial expansion of the young U.S. settler colonial government, treaty making became a strategy to dispossess and gain access to Indigenous land and marine territories. Amid the uneven violence of U.S. colonization, Native Nations endeavored to hold open the possibility of self-determination through participation in Treaty-making (Lyons, 2010). Native Nations from across the Pacific Northwest met with Governor Issac Stevens, his associated secretaries, and translators to negotiate two-way agreements with the U.S. government. During 1854-1855, in what became Washington State, negotiations between the parties produced a total of eight treaties. Unlike the Treaty of Point Elliott or the Treaty of Medicine Creek in which multiple Tribes came together for the negotiation and signing; Makahs negotiated an individual agreement to ensure the protection of Makah rights and customs.

Critical to these negotiations was the Makah affirmation and claim to their longstanding maritime territory as "the foundation of their power and identity" (Reid, 2015, p.12). By way of

classified documents relating to Treaty negotiations from the U.S. Bureau of Indian Affairs (Neah Bay Agency), Snohomish historian Joshua Reid, revealed efforts made by Makah leaders to communicate through the Makah language and Chinook jargon (trade language) with United States government officials (2015, p. 310). The Treaty was an understanding, writes Josh Reid, "captured in the words of Ċaq̇a·wiƛ, a Makah chief, during the negotiations for the 1855 Treaty of Neah Bay" when he "told the Euro-American treaty negotiators,'I want the sea. That is my country'" (2015, p.12). Reid continues:

> [Chief] Ċaq̇a·wiƛ refused to even consider the terms of the treaty until Stevens joined him in a canoe on the saltwater. As the two leaders paddled around, the Ozette chief explained that the sea was his country. Although it is tempting to imagine this exchange as literally one where the two men were alone in a small canoe on the water, Captain Jack and Fowler [translators] probably accompanied them to help Stevens understand Ćaq̇a·wiƛ (Reid, 2015, p.126).

Reid describes how several other Makah chiefs, including Q̇i·čuk and ʔitʔa·ndaha· also repeated that they "did not wish to leave the saltwater…"(Reid, 2015, p. 126). The efforts Makah leaders made to to communicate the significance of marine territory as critical to Makah lifeways is most reflected although reduced to Article 4 of the Treaty of Neah Bay "The right of taking fish and of whaling or sealing at usual and accustomed grounds and stations" (Treaty of Neah Bay, 1855).

In *Coming to Shore: Northwest Coast ethnology, traditions and visions*, Janine Ledford (then Janine Bowechop) and current director of the MCRC, describes how the process of Tribal treaty-making with nation-states such as the U.S. were a means to affirm the inherent sovereignty of Makah peoples and the Makah Tribe: "The Makahs had lived in the same area from time immemorial, securing a truly indigenous position. They also governed themselves with a sophisticated system of laws and values for centuries. *Their treaty-negotiating authority stemmed from this inherent sovereignty.* Makah people reserved important rights within their land and

ocean territories, and the U.S. government agreed, via the treaty, to reserve and protect these rights" (Bowechop, 2000).

Border Policy and Fisheries Management Regimes

In the wake of WWII, the Pacific Ocean saw a dramatic increase in maritime presence and vessels from the United States, Canada, China, Japan, and Russia. Countries rebuilding their postwar food production systems, such as the U.S., sought to increase global fisheries as a means to restore devastated economies and replace slow-growing terrestrial food systems with marine-based proteins. U.S. efforts collided with Canadian, Japanese, and Russian fishing interests within the Pacific as the ocean was seen by many as a place of "freedom" without jurisdictional oversight. At that time, three-miles off the coast was recognized by the US for state jurisdiction as defensible space or the 'cannon shot rule' (Dunec, 2015).

Within the U.S., a combination of post-war economics and international fishing competition resulted in the formation of a new legal statute in 1976 intended to "Americanize" fisheries and push foreign fleets out by laying claim to 200 nautical miles off the coast for fishery and economic purposes, notably conservation and management (Dunec, 2015). The Fisheries Management and Conservation Act (FMCA) of 1976, commonly known as the Magnuson-Stevens Fishery Conservation and Management Act (MSA) "established a *Fishery Conservation Zone*, now known as the exclusive economic zone (EEZ), stretching from the outer boundary of state waters to a distance of 200 miles as well as a set of rules and institutions for managing fishing activities within that zone" (Dunec, 2015, p. 306). In the exclusive economic zone "the coastal state has sovereign [exclusive] rights for the purpose of exploring and exploiting, conserving, and managing the natural resources" (Dunec, 2015, p. 306, 373). After its initial establishment, the EEZ became affirmed by Presidential Proclamation was declared in

1983 by Ronald Raegan: “sovereign rights and jurisdiction in accordance with international law” over 200 nautical miles “from the baseline from which the breadth of the territorial sea is measured (United States Federal Register, 1983). Although Canada placed a similar claim to 200 nautical miles off their coastlines in 1977, the Canadian EEZ was not formally established until the creation of their Oceans Act in 1996 (Fisheries and Oceans Canada, 2007).

In 1994 the United Nations Convention on the Law of the Sea (UNCLOS) further solidified the EEZ as customary policy around the world (Dunec, 2015). Despite the fact that the U.S. recognizes UNCLOS as international customary law and participated in UNCLOS negotiations, the U.S. has never ratified UNCLOS. Canada ratified UNCLOS in November of 2003 (Canada, 2022). The enshrinement of the EEZ through this legacy of mechanisms has severely disrupted Indigenous access to marine space, including Makah access to ƛ̓ušu·ʔa· and łułubałid, beyond a tiny sliver of ƛ̓ušu·ʔa· that remains within the U.S. EEZ.

Today, access to Pacific halibut is regulated by a combination of international border policies and international and national fisheries agreements that serve to extend settler jurisdiction over Indigenous marine space. Through border enforcement, both the U.S. and Canada officials attempt to prevent access to ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile Bank or La Perouse). The EEZ operates as an extension of the colonial border, and along with other management mechanisms operate to disrupt Makah self-governance of Pacific halibut relations.

# Šu·yu·ł and Makah Relations through ƛ̓ušu·ʔa & łułubałid

While the majority of ƛ̓ušu·ʔa· (Swiftsure bank) lies on the Canadian side of the imperial border, Makah still maintains access to a small sliver of this ancestral fishing bank within their adjudicated usual and accustomed (U&A) territories on the U.S. side of the border. In an

interview from 2018 with the MCRC, Darrell Markishtum, Makah Tribal Member and fisherman, reflects on his experience trolling near the border at Swiftsure bank:

> It's really good to be able to witness Mother Nature at its best. I was out there about a year and a half ago, Swiftsure, and we made a tow over there, bottom trolling. And we picked up the gear and for a 3 or 4-mile stretch there it had to be pretty close to a hundred humpback whales right there. They were everywhere. And different pods but really in the same proximity, same area. Because, like I said, Swiftsure Bank is really where the upwelling of, the currents from 2-3 different directions come along and really there is a lot of feed coming out of the Straits of Juan de Fuca, off the ocean from the North and from the South and so it is really a big focal point for all the fish, all different kinds of species. And so, I got to see uh, a hundred humpback whales in one area. I was coming back from Swiftsure and one time and just me and Mike Steeves, and we from uh, gosh could have been up to 8 miles in every direction there was nothing but uh, dall porpoises I guess, in every direction that's all you can see. Is just, just jumping and flipping and they're right next to our boat like just 10 feet away from our boat, 8 feet away, they'll jump in the air and stop and they'd look at you smile (MCRC, 2018).

Darrell's experience at the margins of ƛ̓ušu·ʔa· conveys Makah traditional ecological knowledge of complex oceanic processes as he describes "the currents from 2-3 different directions come along and really there is a lot of feed coming out of the Straits of Juan de Fuca, off the ocean from the North and from the South," and the subsequent ecological effects of the nutrients brought by the currents as a "big focal point for all the fish, all different kinds of species" (MCRC, 2018). This story also conveys the importance of ƛ̓ušu·ʔa· as not only a site of ecologic upwelling but also of *emotional upwelling* where access to fishing at Swiftsure within Makah U&A enabled Darrell "to witness Mother Nature at its best" and recollect how "they'll [porpoises] jump in the air and stop and they'd look at you smile" (MCRC, 2018).

Darrell's experience at ƛ̓ušu·ʔa· is one of many stories highlighting the importance of the sea to Makah peoples. As the sea is at the heart of Makah lifeways, the Makah language reflects those relationships. "According to Makah oral histories, ancestors found Swiftsure when returning from whaling. The whalers spotted sea lions feeding on halibut, so they took cross-

bearings on Tatoosh Island, Waadah Island in Neah Bay, and the highest peak on Vancouver Island. The next day they returned with their gear and "filled the canoe with halibut in a little while, and came home happy and shouting from far out to sea" (Reid, 2015, p. 213). In addition, the word "ċaʔad(i)łačakt ("tsuh-uh-dih-lthuh-chukt")" meaning "the quickest current to Swiftsure" in Qʷi·qʷi·diččaq relays the importance of navigable access to Swiftsure bank (Reid, 2015, p. 214). Makahs practiced their knowledge of these strong ocean currents interacting off the western coast of North America in which "experienced Makah mariners used the strong tidal current around Cape Flattery to get to and from fishing grounds off the cape and to travel among villages" (Reid, 2015, p. 7). This sense of mobility across the sea-and-land-scapes is best expressed through the practice of wayfinding.

When I interviewed Neil Lyons in December of 2022, he described his first few trips as a child fishing with his step-grandfather, Jules Ides:

> And he would take us out some time. And he'd… before… this is 'fore technology. And they only had a few, like, 'numbers machines' to tell you on a maps and stuff. Because everything's like by minutes…and that's how you measure where you're at, when you leave. It's kind of hard to explain. Anyways, he would have to do landmarks, and that's how he would tell where he was at. Yeah, you know, you'd laugh. You'd line up certain, certain land points. You know, okay, I'm gonna land it up right here, and then he'd look over to the other island and line up that spot. So you can get your landmarks. And that's how he said he learned and he did everything by hand too.

For thousands of years the fishing banks of ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile or La Perouse) have sustained multi-species relationships, especially with šu·yu·ł. As key subsistence and commercial fisheries, both Swiftsure and 40-mile have contributed to Makah food sovereignty and connectivity through geo-political governance. Makah's ƛ̓ušu·ʔa· and łułubałid fishing grounds reflect the ča·di· borderlands of the Northwest Coast.

## Food Sovereignty & šu·yu·ł

The first day we arrived in Neah Bay, Reuben and I were invited to carve the halibut. Uncle Neil let us know that there was a cooler full of fish ready to meet his sister's skills. His sister, Isabell Ides, zipped up her fleece, grabbed her filet knife and instructed us to follow her down to the docks. As Aunty Isabell pulled the fish from the ice box and flopped them onto the deck, dozens of bald eagles and sea lions instantaneously swarmed. Isabell taught Reuben and I how to filet the delicate meat with special care for the cheeks as she expertly pierced and portioned each fish with her blade (while giant sea lions graciously enjoyed any and all scraps). That night we rejoined more family members and together, enjoyed the freshest seafood. Inhaling the smell of warm fish, oil and cornmeal, we laughed and ate until our warm bellies nearly burst. While this was both our first, and so-far our last, halibut feast in Neah Bay; the experience illustrates the power of halibut to bring people together.

Images depict Isabell Ides filleting šu·yu·ł (Photos by Isabel Lavallee, Spring of 2021).

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Here, I apply the expansive concept of *food sovereignty* to šu·yu·ł-Makah relations, where the actions of fishing, preparing, distributing and eating traditional foods such as access to halibut promotes an embodied relationship to cultural lifeways, especially when done within a community. Pacific halibut provides not only an important food source but also an important trade good for Makahs; as such, "Makahs [took] more care and pains in drying halibut than in the

preparation of any other article of food" (Reid, 2015, p. 216). The caring labor that preserved the halibut meat, "gills, backbones, and heads for soups and oils" indicate the depth relationships between Makahs and šu ̓yu ɬ where care indicates the "relational set of discourses and practices between people, environments, and objects" and as "critical survival strategies" (Hobart, & Kneese, 2020; Reid, 2015). After the strips of halibut were smoked and dried, "women kneaded the halibut pieces, softening and flattening them before balling and packing them away in blankets and boxes. When processed this way, halibut lost three-fourths of their weight but remained edible for a year" (Reid, 2015, p. 216). Such relational care and kinship with food are critical components of food sovereignty and food security.

Primarily, fishing is regarded as a men's occupation in Neah Bay, indicative of the importance of gendered roles for diverse Makah food practices. However, historic and ethnographic data reveals that women also participated in fisheries: "women also fished on their own, including Nora Barker, who continued after her husband drowned near Destruction Island in 1917. He had shown her the best spots because they had fished together before his death" (Reid, 2015, p.). In addition, during one of my phone call check-ins with Janine Ledford, member of the Makah Tribe and director of the MCRC, Janine shared a story from Makah elder, Ruth Claplahnoo. This brief account took place in the l920s–1930s, in which Ruth Claplahnoo and Irene Ward, two young Makah women likely in their early 20s, were able to paddle a Canoe out to Swiftsure bank by themselves and harvest halibut for their families. These stories exemplify the  importance of Makah fishing banks such as ƛ̓ušu·ʔa· for all genders, and that access to fishing banks was a critical means to provide food security for one's family.

While the meaning of Indigenous food sovereignty extends far beyond the mere nutritional benefits of a food source, consuming traditional foods like halibut provides vital

nutritional benefits to support community wellbeing and is a key component of food sovereignty. Šu ̓yu ɬ, Pacific halibut, holds significant dietary nutrients such as protein, vitamin D, calcium, iron, and potassium (USDA, 2019). As halibut feed upon a wide range of creatures across different trophic levels in the food web; they also grow to contain essential micronutrients necessary for human bodily processes including, vitamins A, B3, B6, B12, E and many trace minerals such as selenium, phosphorus, and magnesium (USDA, 2019), though Indigenous consumers of Pacific halibut must also contend with high concentrations of mercury [concentrations which can vary regionally], an industrial pollutant which can pose significant health risks to humans (Bentzen et. al., 2016; Kidd et. al., 2012).

Despite colonial efforts to separate Indigenous peoples from their traditional foods, Makahs maintain relationships šu·yu·ɬ through embodied practices of food sovereignty from fishing to processing, distributing to eating šu·yu·ɬ within community. Importantly, this thesis does not convey the entirety of Makah relationships to ƛ̓ušu·ʔa· or łułubałid, nor the diversity of relationships to places maintained by individual Makah community members. Rather this kin study illustrates the continued significance of ƛ̓ušu·ʔa· or łułubałid through a collection of individual stories and historical data.

## Čibu·d, Abundance & Conservation

Šu·yu·ɬ don’t live in the depths all alone. They live among diverse deep-dwellers collectively roaming about the continental shelf and coastal plains. Here, a myriad of rockfishes, sharks, rays, Pacific hake, lingcod, octopuses, shrimp, crabs, tube worms, clams, sponges, anemones and even large migrations of wild Pacific salmon, whales, and orcas all rely upon the plankton-rich ecologies produced through the upwelling centers of the Juan de Fuca eddy,

oceanic processes well understood by Makahs (Reid, 2015, p.7). As the fish age, they settle down amid their reefs and canyons, only to venture back below the continental shelf around Autumn to Winter to make more babies. When they make their journey back to the depths, a 50 lb female šu·yu·ɬ has the ability to produce about 500,000 eggs while a female over 250 lbs can produce over four million eggs.

Makah fisherman Neil Lyons describes these šu·yu·ɬ as "the hens" or "big daddies" and recounted names that *"we don't see very many of those ones"* anymore. When he does, he prefers to "let the 100 pounders go" as a way to honor sustainable relationships with šu ̓yu ɬ for future generations. Additionally, Neil names the use of či·bud, the Makah halibut hook, as a tool that has helped Makah peoples maintain good relations with halibut as *"those hooks were made to catch certain size fish"* (Neil Lyons, 2022). The či·bud is a Makah technology created by making a frame using hemlock, true fir, or yew knots and steam bending them inside the bulb of the bullwhip kelp, *Nereocystis luetkeana*, while the barb was of bone, antler or wood and lashed with strips of ribbon-thin spruce or wild cherry bark (Scordino et.al., 2017).

The extraordinary abundance of halibut caught by Makahs conveys the importance of this fish to Makah lifeways as described in 1880, when "James Swan estimated that the Makah, a community of 728 individuals, annually took more than 1.5 million pounds of fresh šu·yu·ɬ" (Reid, 2015, p. 217; Scordino et.al., 2017). Josh Reid synthesizes an account on the process of traditional halibut fishing by Makah fisherman, Henry Markishtum:

> Fishers left the villages and summer camps before dawn in order to reach the banks by noon. On arrival, a fisher cast out his line carrying a sinker and two specially designed hooks known as a čibu·d ("chih-bood"), these hooks were curved so that yačaʔa· ("yuh-chuh-ah," dogfish) infesting the halibut banks slipped off when they struck, whereas the intended prey rarely escaped once they bit. They used octopus for bait, knowing that halibut prefer it while dogfish avoid it. In Markishtum's account, the sinker pulled the

> line sixty fathoms to the fishing bank. Once the halibut—or sometimes two—took the hook, "then [came] the tug-of-war, the halibut has bit the curved genius." After pulling up the sixty fathoms of line, a feat that often required wearing several pairs of gloves to protect the hands, the fisher then clubbed the halibut dead and hauled it over the edge of the canoe. In an afternoon, several fishers in a canoe thirty to thirty-five feet long could fill their vessel with ten to forty halibut, depending on the size. Once ashore, women pulled out "butcher knives, sharp as razors," and cedar bark mats for cleaning the catch on the beach. According to Markishtum, "Those dexterous with the knife seize[d] the halibut, chop[ped] the head off with a single jab . . . , clean[ed] the internal section and wash[ed] it thoroughly" with saltwater. When processing halibut for winter storage and trade with other Indians, women cut the fish into pitas, full-length, ribbon-thin strips. Without the aid of salt, they first sun-dried the strips on racks and then brought them into the "warm houses" to smoke when partially dry (Reid, 2015, p. 214-16).

Relationships between Makah peoples and šu·yu·ɬ are not stagnant. Rather, Makahs maintain traditional lifeways and adapt to changes using both modern and traditional fishing practices. For example, when the U.S. government presented gifts to the Makah to promote european style farming such as metal pitchforks and spurs, Makahs crafted the metal into whale harpoons as well as the frame and the barbs of čibu·d (Reid, 2015; Scordino et.al., 2017).

Within the last decade, research has demonstrated the unique design of Makah's čibu·d halibut hook as a successful method to reduce bycatch of non-target fishes and increase sustainability within the Native and non-Native halibut fisheries:

> Managers could potentially operate special fisheries in areas only allowing fishing with the čibu·d to prevent catch of fish species of concern. For instance, currently in area 2A there are numerous recreational fishing areas closed to recreational halibut fishing due to concerns of rockfish bycatch. These areas could be fished with minimal bycatch if anglers used čibu·d. Managers could also require the use of the čibu·d in other areas that are not currently protected but are known to have moderate or high levels of catch of species of concern. Anglers will likely respond more positively to new regulations that allow them to continue to fish their accustomed areas with new gear than to regulations that exclude them from fishing grounds (Scordino et.al., 2017).

Up into the late 1960s-70s, prior to the hardening of the international border through the EEZ, Makah peoples were still able to access their traditional fishing banks. In my interviews, Makah elders described their experience of fishing at ƛ̓ušu·ʔa· in the late 1950s; where intergenerational

crews of fishermen would anchor up with their canoes tied together and hand-line fish for halibut using čibu·d.

The development of čibu·d is an example of Indigenous technology which supported the maintenance of reciprocal relations between Makah, šu·yu·ł, and the other non-human relations that dwell within ancestral Makah waters. The čibu·d technology can be seen as a method of conservation, so that future generations were guaranteed access to this food. Makah tribal member and youth counselor, Isabell Ides shared with me that hand-line or čibu·d fishing continues today through Makah programs to share and promote the growth of human-fish relationships. Yet the čibu·d is not the only mechanism employed by Makah peoples to ensure regenerative management of šu·yu·ł.

Makahs also optimized fishery management practices included conservation management by employing the use of hereditary family ownership and tenured spaces. The Ozette archaeological dig revealed a mosaic of diverse fish foods utilized by Makahs year round by identifying fish and mammal bones uncovered from multiple homes buried by a mudslide. While fishes including salmonids, lingcod, rockfish, greenling, shellfish, black cod, and herring are and were included in historical Makah diets, whale and halibut were a prominent food source for Makah peoples. Bone remains found at House 1 consisted of (⅓) halibut and lingcod whereas House 2 remains consisted of predominantly lingcod, followed by salmonids, halibut and rockfish (Huelsbeck, 1983). This research reveals the diverse types of fish available to different families likely due to hereditary ownership practices on particular fishing banks in which ownership practices permitted familial access to multi-species fishing areas (Huelsbeck 1983; Reid 2015). The Makah Cultural and Research Center further explains the laws and protocol behind these ownership practices as “inherited cultural privileges, or “tupat” such as ownership

of songs, dances, stories, land and ocean resources and cultural information. Such “tupat” was and is today, owned not by the Makah as a whole, but by Makah families and individuals within the Family” (MCRC, 2003; Makah Tribe, 2014).

With few bones, large sizes and tasty white meat Pacific halibut are regarded as a popular food fish. However, due to their slow growth these fish require well-informed management practices. According to a report of the MCRC Halibut research team, fishing banks off of Cape Flattery were carefully “owned places belonging to specific Makah families” who held vested interests in conserving their property (Reid, 2015, p. 229). This practice reduced concentrated pressure on individual banks as “the halibut’s slow growth cycle, the Makah strategy of spreading the fishery out across many banks ensured conservation” (Reid, 2015, p. 230).

# International Bordering Practices and Disruption of Access to ƛ̓ušu·ʔa· & łułubałid

Makah hereditary ownership of marine space predates imperial bordering practices. When interviewed, Steve Joner, Makah Fishery Management Consultant and previous director described the contrast between Makah and non-Native ontological frameworks which has been evident throughout the historical struggle over the region’s halibut fisheries:

> And they said, if they can't fish where they want to, they can't get the halibut or the whale, they become a poor man. So at that time they had a thriving economy based on harvesting halibut and whales and other species, and then selling those. They did not want to give that up and Isaac Stevens recognized that, and assured them that not only would they retain that, but that the US would send them implements to modernize it. So, in their [past Makah peoples] minds, they retained the ownership to those fishing grounds. In the minds of the United States, well, nobody owns the ocean, you just own land, so that conflict is still with us today and has led to some serious problems (Interview with Steve Joner, 2022).

Imperial bordering practices are predicated on the settler colonial assumption of terra nullius or "empty land" where settler governments laid claim to large swaths of Indigenous occupied, tenured, and transformed landscapes (and seascapes) on the basis that they were legally "empty" (Spence, 1999). As such they disregard the complex management and ownership systems of Indigenous nations. The historic and ongoing relationships between Makah peoples and šu·yu·ł are based in Makah governance recognized throughout the Indigenous borderlands of the Northwest coast. These relationships and responsibilities include hereditary ownership over spaces, community fishing and food practices, sites of traditional ecological knowledge and socio-cultural connectivity which upheld Indigenous rights and relationships.

Borders function differently in different places for different people. The imperial border off the Pacific Northwest coast of the United States and Southwestern coast of Canada is (re)produced through securitization, enforcement, and contemporary practices of fishery management. Such practices impact Makah access to ƛ̓ušu·ʔa· and łułubałid through increased surveillance, exposure to dangerous shipping traffic, and disruptions to transnational Makah connections with human and non-human kin relatives. As Neil Lyons explained:

> It's a way of controlling us [the border], I think. I think it's just a way of, you know, separation: divide and conquer. Yeah, we have family over there. But we just don't, you know, we can't go back and forth as we used to. We still do. And they tried to tell us not to, the Canadians. And they're just like I said, divide and conquer. And they just, it's just colonialism (Interview with Neil Lyons, 2022).

It is no coincidence that such bordering practices have reduced Makah access, because these systems are designed to reproduce colonial sovereignty through "Indigenous pacification, containment, and demobilization" and the ongoing surveillance of "Indigenous economic activities" (Simpson A., 2014, p. 127).

In the early 19th century, an increase in security along the U.S.-Canadian border meant that “Native peoples who had once easily traversed the ča·di· borderland found that they sometimes needed new documents, such as passports, simply to visit family on the other side of the strait” (Reid, 2015, p. 266). Then, in 1997 “both the US and Canada declared two-hundred mile exclusive fishery zones offshore. This placed the tribal nation’s most lucrative halibut fishing banks, Swiftsure and 40-Mile Banks, in Canadian Waters, thereby barring Makah fishers from legally accessing these usual and accustomed grounds” (Reid, 2015, p. 265). When interviewed in 2018 Darrell Markishtum reflects upon the impact that this policy had on Makah fisheries: “And it really did a big impact on our halibut fisheries, our salmon fisheries, lingcod fisheries, the guys used to be you know pretty close to Canada when they, when they would fish over there. But now we can’t go over there anymore” (MCRC, 2018).

All borders are economic zones. Imperial borders prioritize the flow of capital and reduce the movement of specific groups of peoples (Walia, 2021). The Exclusive Economic Zone policy, institutionalized in the U.S. through the MSA, extended imperial claims beyond the existing US-Canada border by creating a 200 mile suture or division within Makah ancestral waters. Neil Lyons speaks about his experience fishing alongside the international border while accessing legally adjudicated Makah usual and accustomed territories (U&A) within the U.S.:

> Yeah, that's the one [swiftsure bank] that I'm talking about. I think that area, that East, man, that is a super fishy area. And that's right down. We only get to fish the edge of it too. If you look at that separation zone. We fish right there right on that border, we have to get right up on it sometimes because that's where the fish are at. And we have to fish right through there. All those big giant freighters that come in the straits, the ones that are in the PA [Port Angeles], and they're going right by us. I mean, like literally. I mean, we could probably touch your poles on the side of the boat if we wanted to. Oh, that's scary. Oh, yeah. I mean, it's foggy too. And it's like that. So we don't know if they're which, you know. It's pretty dangerous. Yeah, it's one of the fishiest spots a lot of the guys go there” (Interview with Neil Lyons, 2022).

This account demonstrates how precarious even the most limited U&A access has been, through exposure to industrial shipping hazards and hard jurisdictional lines that disregard both natural and social ecologies. Neil also shared how wind, ocean currents, and bathymetry of the region often push Makah gear into Canadian waters where they become inaccessible (Interview with Neil Lyons, 2022).

Neil Lyons, who grew up fishing with Makah elder Jules Ides, goes on to describe how Makah ancestral fishing territories extended far beyond the U.S. border and EEZ:

> …you look at the island of Vancouver, and, you know, it's just one big bank as it goes up. Yeah, yeah, that's where we used to fish, all the way into – pretty much the same grounds is what the Canadians fish – you know, I mean, they were relatives" (Interview with Neil Lyons, 2022).

This testament is important as it presents the continental shelf, as a vast, navigable and intimately understood region traversed by Makah fishermen for thousands of years. In addition, Neil referenced the change in ability to easily visit Indigenous relatives living in Vancouver Island, where the hardening of the imperial border made visiting more difficult (Interview with Neil Lyons, 2022). In each of these ways, existing economic policy, fisheries management, and border enforcement reproduces colonial disruptions to food sovereignty, along with conditions for the continuance of cultural knowledge practice through relationships to place.

# Recognition & Refusal: the Re-establishment of the Makah Halibut Fishery

The sound of a gunshot signifies the commencement of Makah's annual commercial halibut opener, where the halibut fishing fleet makes a dramatic departure from the Neah Bay Marina. The Makah halibut fishery currently operates at both subsistence, ceremonial and commercial scales and is widely considered to be Makah's 'bread and butter' where halibut is a

staple of Makah food security, trade and cultural lifeways. However, there was a time period when Makah were prevented from participating in their inherent and Treaty-reserved rights to šu·yu·ɬ. When describing the significance of traditional halibut fishing banks, Darrell Markishtum invoked the Treaty of Neah Bay by stating: "We've given up from here to Lake Ozette to Clallam Bay, we've given up all that land specifically for who we are. We are People of the sea. We are People of the ocean" (Interview with Darrell Markistum, 2018). This statement reflects the demands made by Makah Chief Ċaqa·wiƛ, who ensured the Treaty reflected the sovereign rights of his people to the sea. This section outlines efforts made by the Makah Tribal government and individual community members to restore access to their halibut fishery throughout the last century.

To restore access to treaty-secured rights, in the past the Makah Tribe has worked through formal legal or diplomatic structures of recognition. For example, when tracking the increase of claims over the sea and continental shelf within Makah marine space, the "the Makah Tribal Council passed a resolution in 1960 articulating the special interests – treaty fishing rights to Makah halibut banks – that the US needed to consider when negotiating a possible sea claim with Canada" (Reid, 2015 p. 265). In this instance, the Council utilized diplomatic channels to inform U.S. diplomats negotiating the maritime boundary with Canada, that the extension of the border to 200 nautical miles would "deprive the members of the Makah Tribe of Indians their right to fish in their usual and accustomed fishing grounds" (Reid, 2015 p. 265).

When such "politics of recognition" (Coulthard 2014) failed to secure Makah Treaty rights and their inherent rights to ancestral fishing territories, Makahs turned to the politics of "refusal" (Simpson 2014). Protesting "the loss of access to customary marine space by continuing to fish for halibut in the newly claimed Canadian waters during the late 1970s and

early 1980s," Makah fishermen were criminalized as Canadian officials confiscated their boats, gear and temporarily jailed them in Victoria (Reid, 2015, p. 266). This practice of fishing in ancestral territories is a lived expression of food sovereignty and ever-present inherent sovereignty. Efforts to hinder Makah sovereign practice is another example of how limiting access to traditional foods has been a common assimilation tactic of settler nation-states (Whyte, 2018). In the context of the American Indian Movement (AIM) and Red Power Movement throughout the 1960s-70s, these tactics of refusal were powerful expressions of Indigenous resurgence that often led to new legislation of policy frameworks.

Following the "fish ins" and "fish wars" beginning in 1963 Indigenous fishers participated in civil disobedience that revealed the extent of state sanctioned colonial violence towards Native fishers. Throughout these decades of resistance, Nisqually tribal member and AIM icon, Billy Frank Jr., was arrested over 50 times for practicing his Treaty reserved rights to fish (Heffernan, 2012). Such political pressure laid the groundwork for concurrent legal strategies.

Notably, Makah Tribe was one of the 14 plaintiffs in *US v. Washington*, which resulted in the landmark 1974 "Boldt Decision." Boldt created new requirements of fishery management in the State of Washington by affirming the treaty guaranteed the right to a 50% allocation of salmon and steelhead for Tribal Nations in Washington State (Woods, 2005, p. 430). Notably for Makah, however, the ruling however, did not address Tribal allocations of šu·yu·ł and other marine-based traditional foods, "even though" as Josh Reid notes, "Judge Boldt described the halibut banks and Swiftsure as examples of the tribal nation's usual and accustomed grounds" (2015, p. 264).

Then in 1978, Makah Tribe exercised their power by drafting a very specific petition to Ambassador Lloyd Cutler (the Carter administration's representative in boundary negotiations with Canada) by invoking the Boldt decision and access to fishing grounds per their rights outlined in the Treaty of Neah Bay, writing:

> We feel it is imperative upon the government to continue to protect our fishing rights for halibut and other species in the Pacific Ocean and any new agreements which may be reached with the government of Canada. Our rights must, of course, be 'grandfathered in' not only because they are traditional and historic in the normal sense of the word, but also because they have been recognized by treaties with the United States government (Reid, 2015, p. 266).

Unfortunately, Cutler prioritized sports fishing lobbyists and the 1979 Protocol or "Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" between the U.S. and Canada prioritized non-Native sports fishers to Makah (Reid, 2015, p. 266). Throughout the next decade, the Makah Tribe petitioned the International Pacific Halibut Commission, an international fisheries management body established in 1923 by the U.S. and Canada. These requests included a variety of reasonable changes that would facilitate Makah participation in the commercial halibut fishery" (see: IPHC, 1979, p. 8). With their access to ancestral fishing grounds curtailed by international and domestic fishery management regimes, Makah worked through a range of mechanisms, from the U.S. National Marine Fisheries Service (see: IPHC, 1985, p. 8) to the courts (Reid 2015, p. 267).

Between 1985 to 1993, the Makah Tribe sought to apply Judge Boldt's 50% ruling to their treaty-reserved right to Pacific halibut. In 1985 the Makah Indian Tribe filed a claim (Case No. C85–1606) against the Secretaries of Commerce and State. The case was transferred through several courts (see: *US v. Washington*, p. 1222-1224) until December 29th, 1993, when U.S. District Judge Barbara Rothstein applied Judge Boldt's decision to Pacific halibut (*U.S. v.*

*Washington*, p. 1222; Harvard Law Review 2019). Rothstein's ruling determined that the U.S. government must:

> accord treaty fishers the opportunity to take 50% of the harvestable surplus of halibut in their usual and accustomed fishing grounds, and the harvestable surplus must be determined according to the conservation necessity principle (*US v. Washington*, p.1222).

In so doing, Rothstein invoked the same "conservation necessity principle" outlined in the Boldt decision as an "instrument for negotiating clashes between the states and tribes (buoyed by federal treaties) over the consumption and preservation of resources" (*Harvard Law Review*, 2019).

# Conclusion

Imperial bordering practices, such as the U. S. Canadian border and its EEZ, are attempts to divide marine space from ancestral human-fish relationships. Yet over the last two centuries Makahs have resisted these bordering practices through the politics of refusal and recognition. The range of political efforts made by the Makah Tribal Government and community members to re-establish the Makah Halibut fishery indicate the strength of relations between Makahs and šu·yu·ɬ. Makah relationships to ƛ̓ušu·ʔa· (Swiftsure) and łułubałid (40 Mile or La Perouse) are intimately tied to šu ̓yu ɬ through food sovereignty and self-determined fishery governance. Specifically, ƛ̓ušu·ʔa· and łułubałid are storied places that promote abundance and community food practices, the use of traditional knowledge and technologies, and the continuation of Indigenous fishery governance through practices such as hereditary ownership. When imperial bordering practices and restrictive fishery management policies reduced Makah access to šu·yu·ɬ, ƛ̓ušu·ʔa·, and łułubałid, Makahs strategically used the courts to re-establish their halibut fishery and regain recognition to many of their Treaty-reserved fishing rights. Imperial borders are

constructed to produce and uphold settler colonial polities, yet Indigenous communities resist imposed boundaries through sovereign relationships to the land and sea, as expressed through their own dynamic borderland relations. Currently, imperial bordering practices over-determine who is allowed to move throughout marine borderlands and access ƛ̓ušu·ʔa· and łułubałid. Indigenous borderland governance presents an alternate imaginary for the formation of embedded relations to place, and especially to those places, off the continental shelf, deep within enigmatic Pacific waters, where life begins.

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