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**INTERGOVERNMENTAL AGREEMENT  
REGARDING LOCAL WATERSHED PLANNING  
FOR THE SOL DUC-HOH BASINS  
(WRIA 20)**

THIS INTERLOCAL AGREEMENT REGARDING LOCAL WATERSHED PLANNING FOR THE SOL DUC – HOH BASINS (WRIA 20) hereinafter referred to as the “Agreement” is entered into by and between Clallam County, Jefferson County, the Makah Tribe, the Quileute Tribe, the Hoh Tribe, and the City of Forks.

WHEREAS, coordinated efforts for watershed planning in WRIA 20, which contains some of the last few runs of wild salmonids in Washington State that are not ESA-listed, are a priority; and

WHEREAS, Chapter 90.82 RCW, Watershed Planning, provides authority for local watershed planning for waters and water rights under State jurisdiction and directions for the initiation of planning and eligibility for grant funds, and

WHEREAS the Interlocal Cooperation Act (Chapter 39.34 RCW) provides authority for governmental entities to exercise their respective powers jointly through intergovernmental agreements; and

WHEREAS, watershed planning under Chapter 90.82 RCW includes representation by a wide range of water resource interests in the investigation and planning of actions relating to water quantity, water quality, habitat restoration and preservation, and instream flows, and the identification of projects and activities to protect water resources and improve natural resource management; and

WHEREAS, Chapter 90.82.060(2) provides that watershed planning may only be initiated with the concurrence of the following entities:

1. All counties in the Water Resource Inventory Area (WRIA); and
2. The largest city or town within the WRIA; and
3. The water supply utility obtaining the largest quantity of water from the WRIA; and

WHEREAS, under Chapter 90.82.060(4), the initiating entities after deciding to proceed, must invite each tribe with reservation lands within the management area to participate as an Initiating Government; and

WHEREAS, the following Indian Tribes have been invited and have agreed to participate as initiating governments: Makah Tribe, Quileute Tribe, Hoh Tribe--and by their acceptance, the Initiating Governments now consist of these tribes, the City of Forks, Jefferson County and Clallam County, and

WHEREAS, the Sol Duc-Hoh Basins have been designated by the State as WRIA 20; and

WHEREAS, the initiating governments will invite other interested parties, including but not limited to, federal and State government agencies or services, interest groups and individuals; and

WHEREAS, under Chapter 90.82 RCW, after the Initiating Governments commence watershed planning and invite the Tribes to participate, they must designate a lead agency and indicate how the planning unit will be staffed,

NOW, THEREFORE, the Initiating Governments agree as follows:

## **1. Formation of the WRIA 19 Initiating Governments**

The Initiating Governments are Clallam County, Jefferson County, City of Forks, Makah Tribe, Quileute Tribe, and Hoh Tribe. Clallam County serves as lead agency for Phase I of the watershed planning process. The Initiating Governments shall provide for staffing of the watershed planning effort, management of grant funds, resolution of disputes regarding interim decisions, and a public hearing process. The representatives of the Initiating Governments shall consist of one elected or appointed official and one alternate from each of the six (6) Initiating Governments from WRIA 20. The recognized officials shall be the voting members of the Initiating Governments, provided that a designated, duly authorized alternate representative may vote in their absence.

## **2. Funding and Accounting**

- a. The Initiating Governments are authorized to apply for and accept grants in the name of the WRIA 20 Initiating Governments and to use existing grant funds and appropriations for the purposes specified herein.
- b. The Initiating Governments' funds shall be retained in a special account established by the Clallam County Treasurer to be known as the "WRIA 20 Watershed Planning Account". All sums received by the Initiating Governments shall be placed in and disbursed from that account. The Clallam County Treasurer shall be the custodian of the account and the Clallam County Auditor shall keep a record of the receipts and disbursements. The Clallam County Auditor shall draw and the Clallam County Treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the Initiating Governments.
- c. The Clallam County Department of Community Development is hereby designated as the fiscal agent for watershed planning funds from the Dept. of Ecology and will perform certain tasks related to the proper administration of funds, and shall keep full and complete accounts of the costs incurred in connection with the planning process and shall report to the Initiating Governments on a quarterly basis regarding the accounting of revenues and expenditures.
- d. The Initiating Governments shall not acquire real property. Any personal property acquired for use by the Initiating Governments may be acquired jointly in the name of the Initiating Governments. The Initiating Governments shall dispose of property acquired.

- e. The Initiating Governments agree to disbursement and expenditure of funds as set forth by grant contracts and associated budgets.

### 3. Staffing for Planning Purposes

The Initiating Governments may utilize their staff and resources to organize and administer the planning processes for WRIA 20 and may hire consultants or additional staff to perform various functions related to the watershed planning process.

### 4. Scope of Planning

- a. The Initiating Governments agree that effective watershed planning cannot take place without sufficient scientific data to support informed decision-making. To achieve this, the Initiating Governments, with technical assistance from tribal, federal, state and local natural resources agencies, will scope, design and include in the scope of work for each planning unit, scientific studies which provide an acceptable level of certainty concerning all the surface and ground water quality and quantity requirements of the ecosystems and water users in the affected watershed.
- b. It is expected that the water quantity assessment shall comply with the requirements of RCW 90.82/ESHB 2514. Water quality, instream flows and habitat studies may be incorporated into the scope of work subject to the unanimous consent of the Initiating Governments and to the extent funds are made available at a later time for this purpose.
- c. Watershed planning under this Agreement for any watershed lying wholly or primarily within the Makah Indian Reservation, shall occur outside of the framework of Chapter 90.82 RCW, and shall not extend the jurisdiction of the state of Washington over on-reservation water resources. Watersheds lying wholly or primarily within the Makah Indian Reservation include but are not limited to the following:
  - i) Wa'atch River and its tributaries from their headwaters to the river mouth.
  - ii) Educket River and its tributaries from their headwaters to the river mouth.
  - iii) Sail River and its tributaries from their headwaters to the river mouth.
  - iv) Agency Creek and its tributaries from their headwaters to the river mouth.
  - v) Anderson Creek and its tributaries from their headwaters to the river mouth.
  - vi) Archawat Creek and its tributaries from their headwaters to the river mouth.
  - vii) Beach Creek and its tributaries from their headwaters to the river mouth.
  - viii) Cheeka Creek and its tributaries from their headwaters to the river mouth.
  - ix) Classet Creek and its tributaries from their headwaters to the river mouth.
  - x) Flattery Creek and its tributaries from their headwaters to the river mouth.

- xi) Hobuck Creek, including Hobuck Lake and its tributaries from their headwaters to the river mouth.
  - xii) Kabusie Creek and its tributaries from their headwaters to the river mouth.
  - xiii) Middle Creek (Halfway Creek) and its tributaries from their headwaters to the river mouth.
  - xiv) Ocean Creek and its tributaries from their headwaters to the river mouth.
  - xv) Scow Creek and its tributaries from their headwaters to the river mouth.
  - xvi) Tyler Creek and its tributaries from their headwaters to the river mouth.
  - xvii) Village Creek and its tributaries from their headwaters to the river mouth.
  - xviii) Waatch Creek and its tributaries from their headwaters to the river mouth.
- d. Watershed planning under this Agreement for any watershed lying wholly or primarily within the Quileute Indian Reservation, including but not limited to Lonesome Creek, Smith Slough, and their tributaries, shall occur outside of the framework of Chapter 90.82 RCW, and shall not extend the jurisdiction of the state of Washington over on-reservation water resources.
- e. Watershed planning under this Agreement for any watershed lying wholly or primarily within the Hoh Indian Reservation, including but not limited to Chalaat Creek, and its tributaries, shall occur outside of the framework of Chapter 90.82 RCW, and shall not extend the jurisdiction of the state of Washington over on-reservation water resources.

## 5. Organization of Planning Unit

The Initiating Governments shall cause to be organized a comprehensive public outreach program for the purpose of soliciting all parties of interest to participate in the watershed planning process as Stakeholders in the Planning Unit.

The Planning Unit shall consist of:

- a. Initiating Governments, which include Clallam County, Jefferson County, City of Forks, Makah Tribe, Quileute Tribe, and Hoh Tribe, and
- b. Stakeholder Groups, approved by the Initiating Governments, representing broad interests from government, private, and nonprofit sectors.

Each Stakeholder Group, approved by the Initiating Governments, shall elect a representative and an alternate to represent their Stakeholder Group at the Planning Unit.

“Ground rules” for the Planning Unit will be established by cooperation between the Initiating Governments and the approved Stakeholder Groups.

## 6. Plan Preparation

- a. Decision-making.

- i) Decisions will be made by unanimous vote of the Initiating Governments with each Initiating Government having one vote.
- ii) Stakeholder Groups, approved by the Initiating Governments, shall make recommendations to the Initiating Governments by a majority vote and the Initiating Governments shall make a decision on that recommendation at their next meeting, unless the Initiating Governments determine that further study is recommended in which case the vote may be extended until the next meeting thereafter.
- iii) The Initiating Governments shall file a written explanation for record purposes if a recommendation is rejected or voted down.

b. Watershed Plan Approval by the Planning Unit shall be accomplished as follows:

- i) Approval of the Watershed Plan is achieved by unanimous vote of the Initiating Governments with each Initiating Government having one vote and by unanimous vote of Stakeholder Groups with each group having one vote; if unanimous vote is not obtained, then Approval of the Watershed Plan is achieved
  - a) by unanimous vote of the Initiating Governments with Initiating Government having one vote, and
  - b) by a majority vote of any approved Stakeholder Groups, in existence four (4) months prior to plan submission for approval, with each group having one vote.
- ii) If the Planning Unit approves the watershed plan, the Planning Unit shall submit the watershed plan to the counties with territory within the management area. The legislative authority of each of the counties with territory in the management area shall provide public notice of and conduct at least one public hearing on the proposed watershed plan submitted under this section. After the public hearings, the legislative authorities of these counties shall convene in joint session to consider the proposal. The counties may approve or reject the proposed watershed plan for the management area, but may not amend it. Approval of such a proposal shall be made by a majority vote of the members of each of the counties with territory in the management area. Other jurisdictions are encouraged to adopt the approved watershed plan. Pursuant to RCW 90.82.130, if the proposed plan is rejected, the county legislative authorities shall return the plan to the Planning Unit with recommendations for revisions. A revised proposed plan shall follow the same approval as the original watershed plan. If the approval of the revised plan is not achieved, the process shall terminate.

c. Concurrence to Obligation

The parties of this contract hereby incorporate the entirety of RCW 90.82.130 (3), as it may be amended in the future.

- d. All meetings of the Planning Unit are open meetings to the public, pursuant to RCW 42.30 et seq.

## 7. Water Rights Disclaimer

Nothing in this Agreement nor any report, study, or other product resulting from the watershed planning process or any other activity under this Agreement shall impair any treaty, water or other right of an Indian Tribe or its members, and/or any water or other rights of any other entity or person under any applicable law. Water quantity estimates generated in this watershed planning process are only estimates and are not intended to formally determine or resolve any legal dispute about water rights under state or federal law or Indian Treaties. These estimates cannot be used to limit, prejudice, or in any way impact, the legal rights or obligations of any parties to this Agreement.

8. No real property will be acquired within the framework of this agreement. Any other property or equipment purchased under this agreement, which is funded by grants from the Washington Department of Ecology (DOE), will be disposed of according to the guidelines set forth in DOE publication 91-18 (rev. 7/95), "Administrative Requirements For Ecology Grants And Loans".
9. This Agreement constitutes the entire understanding of the parties and supersedes any prior oral or written understandings of the parties, regarding the local watershed planning for WRIA 20, but does not supersede any Indian Treaties.
10. Any signatory parties to this Agreement may terminate their participation with written notice of intent to terminate by a formal termination letter, which gives no less than forty-five (45) days notice. Within such period, the Initiating Governments shall convene a meeting. Unless the withdrawal of such party terminates the process by law, the remaining Initiating Governments shall continue to operate as the WRIA 20 Initiating Governments.
11. This Agreement may be amended by unanimous written consent of the Initiating Governments.

## 12. Effective Date and Term of Agreement

- a. This Agreement, established with six (6) original copies (one for each of the signatory Initiating Governments) shall be effective immediately upon its execution by the final signatory Initiating Government, Clallam County.
- b. This Agreement shall terminate four (4) years from the last date of execution unless otherwise extended by written amendment of all of the Initiating Governments prior to such date. The Agreement may be terminated earlier upon mutual consent of the Initiating Governments. Upon termination, all unexpended funds shall be disbursed as decided in writing by the Initiating Governments, provided that Clallam County shall first certify to the Initiating Governments that such disbursement complies with the terms of all applicable grants, laws, and accounting principles relating to the expenditure of public funds.

SIGNATURE PAGES (2)

<p><b>CLALLAM COUNTY</b></p> <p>DATE: <u>September 12, 2000</u></p> <p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Chair</u></p> <p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Commissioner</u></p>	<p>BY: <u>Absent</u></p> <p>POSITION: <u>Commissioner</u></p> <p>APPROVED AS TO FORM:</p> <p>BY: _____</p> <p>POSITION: _____</p>
<p><b>JEFFERSON COUNTY</b></p> <p>DATE: <u>8.21.00</u></p> <p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Chairman, Commissioner Dist. 3</u></p> <p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Member, Commissioner Dist. 2</u></p>	<p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Prosecutor</u></p> <p>APPROVED AS TO FORM:</p> <p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Member, Commissioner Dist. 1</u></p>
<p><b>MAKAH TRIBE</b></p> <p>DATE: <u>6/14/00</u></p>	<p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Chairman</u></p>
<p><b>QUILEUTE TRIBE</b></p> <p>DATE: <u>6/23/00</u></p>	<p>BY: <u>[Signature]</u></p> <p>POSITION: <u>chairman</u></p>
<p><b>HOH TRIBE</b></p> <p>DATE: <u>7/19/00</u></p>	<p>BY: <u>[Signature]</u></p> <p>POSITION: <u>Chairperson</u></p>

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<b>CITY OF FORKS</b>	
DATE: <u>7-21-00</u>	BY: _____
BY: <u>Phil Aubeter</u>	POSITION: _____
POSITION: <u>MAYOR</u>	APPROVED AS TO FORM: _____
BY: <u>R. Drifham</u>	BY: <u>City Clerk R. Hick</u>
POSITION: <u>Clark - Treasurer</u>	POSITION: <u>City Attorney</u>

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