

BIG QUILCENE RIVER MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is made and entered into by and between Jefferson County and the State of Washington Department of Fish and Wildlife.

Whereas: The Washington Department of Fish and Wildlife (WDFW) has a duty to preserve, protect and perpetuate the fish and wildlife resources of the State of Washington; and

Whereas: Jefferson County has a responsibility to protect the public health and safety and to regulate land use for the general well being of its citizens; and

Whereas: Both parties have a mutual desire to cooperate with each other and with other affected parties in the protection, enhancement and restoration of fish, wildlife, and water resources, as well as the identification and resolution of other issues and concerns in the Big Quilcene Watershed; therefore:

Jefferson County Agrees:

- A. To implement all aspects of the Big Quilcene settlement agreement of December 8, 1994, between Jefferson County and the State of Washington, Department of Fish and Wildlife.
- B. To involve the WDFW in the determination of acceptable flooding risk for the Big Quilcene River so as to minimize adverse impacts to fish, wildlife, aquatic and riparian habitat, and water resources.
- C. To be a full and active partner with the WDFW and other affected parties in the protection, enhancement and restoration of fish and wildlife habitat in the Big Quilcene watershed.
- D. To seek funding from state, federal, private and other sources for planning and implementation of watershed restoration projects on the Big Quilcene River.
- E. To manage all county properties on or adjacent to the Big Quilcene River so as to protect fish and wildlife habitat, provide for public recreational uses which are compatible with habitat protection, and recognize tribal treaty rights.

Washington Department of Fish and Wildlife Agrees:

- A. To be a full and active partner with Jefferson County and other affected parties in the protection, enhancement and restoration of fish and wildlife habitat in the Big Quilcene watershed.

- B. Consistent with WDFW's primary duty to protect fish and wildlife, to work cooperatively with Jefferson County to minimize the risks of flooding on the Big Quilcene River.
- C. To provide technical assistance and information needed for the protection and enhancement of fish and wildlife resources in the Big Quilcene watershed.
- D. To assist and support Jefferson County in seeking funding from federal, state and private sources for planning and implementing watershed restoration and fish and wildlife enhancement projects on the Big Quilcene River.

Both Parties Agree:

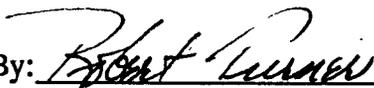
- A. To work cooperatively with other governmental and non-governmental entities in managing the Big Quilcene River for the protection, restoration and enhancement of fish, wildlife, habitat and water resources. Other affected parties include, but are not limited to:

Point No Point Treaty Council
Skokomish Tribe
Jamestown S'Klallam Tribe
Lower Elwha S'Klallam Tribe
Port Gamble S'Klallam Tribe
Washington Dept. of Ecology
U.S. Fish and Wildlife Service
U.S. Environmental Protection Agency

- B. To develop and encourage recreational uses on public lands within the Big Quilcene Watershed that are consistent with the legal mandates of each party and with the protection, restoration and enhancement of fish, wildlife and habitat resources.
- C. To designate contact persons for the purpose of establishing routine communications and to promote a close working relationship at all levels within the respective organizations.
- D. To meet at least once annually during the month of April with other affected parties to discuss issues, concerns and opportunities relating to management and use of the Big Quilcene watershed.
- E. To immediately inform the other party of emergent situations.
- F. To share data and information from past, current and future studies on the Big Quilcene Watershed.
- G. To jointly pursue the acquisition of private parcels within the historical Big Quilcene River delta.

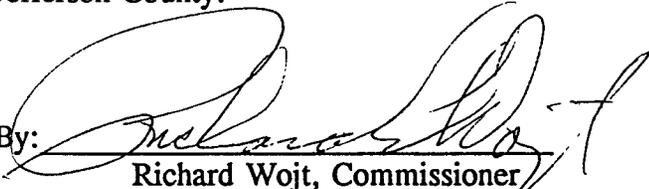
- H. This Memorandum of Agreement shall become effective when signed by both parties.
- I. Because both parties expect their field managers to follow a mutual cooperative philosophy and resolve resource concerns in a professional manner, it is likely that issues will be resolved at the field level. However, in the unlikely event resolution of concerns cannot be reached at the on-the-ground level, both parties agree to elevate the issues of concern through equivalent levels of each organization for resolution. When issues can not be resolved cooperatively at lower levels, they may be referred to the Director of the WDFW and the Commissioners of Jefferson County for resolution.
- J. This MOA will be effective for ten years, provided that at the end of the fifth year it shall be reviewed to determine whether it is meeting the stated objectives and may be modified as necessary upon the mutual consent of both parties, to improve its effectiveness in meeting these objectives.
- K. This MOA may be amended at any time in writing upon the mutual agreement of both parties.

Washington Department of
Fish and Wildlife:

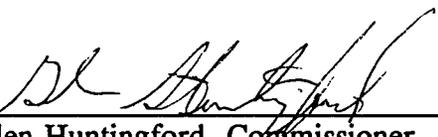
By: 
Robert Turner, Director

Dated: 12/7/94

Jefferson County:

By: 
Richard Wojt, Commissioner

By: _____
Robert Hinton, Commissioner

By: 
Glen Huntingford, Commissioner

Dated: 12/9/94

SETTLEMENT AGREEMENT

The Washington Department of Fish and Wildlife (hereafter WDFW) makes the following settlement agreement with Jefferson County. This settlement agreement is to fully resolve the claims arising from the following events:

Throughout the first week of December, 1993, east Jefferson County sustained heavy rainfall. On the night of December 9, 1993, the flooding of the Big Quilcene River breached the gravel levee on Dan Newman's property in Quilcene. The breach site was about three tenths of a mile from the mouth of the river. When the levee broke, most of the river diverted onto Mr. Newman's property, flooding his outbuilding and equipment.

On December 16, 1993, a verbal Hydraulic Project Approval was issued by Randy Johnson (Washington Department of Fisheries (WDF)) to Dave Ward (Jefferson County). The scope of the permit allowed for closure of the breach in the levee. Some gravel removal from a bar adjacent to the breach was allowed provided that work was outside the wetted perimeter. At that time 60-70 percent of the river flow was through Mr. Newman's property. After the meeting, Al Latham (Jefferson County Conservation District Manager) wrote the verbal HPA instructions and gave a copy to Glen Huntingford (Jefferson County Commissioner) and Dan Newman.

Five (5) days later, on December 21, 1993, WDF personnel observed a bulldozer working in the river. Mr. Uehara (WDF) contacted Al Latham, who went to the site and instructed the Contractor, Gary Phillips, to remove the bulldozer from the site.

Approximately 1,851 feet of the Big Quilcene River channel was dredged. The project violated the conditions of the emergency verbal Hydraulic Project Approval and exceeded the County's official guidelines.

The parties to this agreement recognize that there are risks and costs associated with criminal and civil litigation of these matters. The parties wish to resolve this case by this restitution agreement. Specifically, the parties agree that this matter shall be resolved on the following terms:

1. Jefferson County will secure via either trade of existing County properties or by fee titled acquisition, both the Newman and Shahda properties, and associated tidelands on the lower Big Quilcene River, and assume responsibility in perpetuity for management and maintenance. The lands are to be committed in perpetuity to long-term watershed restoration goals and for purposes of optimizing benefits to fish, wildlife, and water resources, and compatible public uses, with recognition of tribal treaty rights. Jefferson County agrees to consult with and follow WDFW recommendations before making management decisions with regard to these parcels. The target closing date for acquisition is June

30, 1995.

2. Jefferson County will fund a feasibility and design study for watershed restoration in the lower Big Quilcene River. Jefferson County agrees to transfer to United States Fish and Wildlife Service (USFWS), via a formal inter-agency agreement, the sum of \$40,000 for the feasibility study or habitat enhancement work. The scope of the feasibility study shall include the evaluation of delta management scenarios from the perspective of restoring natural delta function within the confines of appropriate flood control. The evaluation of designed channel scenarios shall include channel hydraulic and sediment transport models. Tasks will include reviewing existing information and basin conditions, substrate analysis, basin hydrology, collection of data, and analysis necessary for the hydraulic and sediment models and draft and final reports. This study is to be funded jointly with the U.S. Fish and Wildlife Service. The elements of delta management scenarios to be considered include the design and alignment of a channel from the Rogers Street bridge downstream. Channel design will include channel shape, channel grade, bank protection as needed, bank heights and gravel removal options. The \$40,000.00 transfer to the Washington Wildlife Heritage Foundation, for deposit into the restoration funds account established by the Foundation pursuant to the Foundations' Cooperative Agreement No. 14-48-0001-94692, will be made no later than December 15, 1994.

3. Jefferson County will enter into a Memorandum of Agreement with WDFW, committing to be a full and active partner in the management and restoration of the Big Quilcene watershed for the benefit of fish, wildlife, and water resources.

4. Jefferson County will perform work needed to temporarily armor the dike breach site on the Newman property in order to promote short-term stability of the area. Jefferson County will temporarily armor the dredge spoils along the right bank and in the reach of previous channel excursions to reduce the risk of another excursion in the Fall/Winter of 1994. This work shall be completed by December 15, 1994.

5. Jefferson County agrees to implement these terms consistent with all local, state and federal laws and regulations and to comply with guidelines and conditions specified by WDFW.

6. While Jefferson County is actively working to satisfy the terms of this Settlement Agreement, WDFW agrees not to file criminal or civil actions against Jefferson County. This agreement not to prosecute will become final upon the successful completion of all terms herein.

7. The promises and terms of this settlement agreement are mutual. If Jefferson County does not perform as agreed pursuant to paragraphs 1 through 5 of this settlement agreement, WDFW may rescind this agreement totally and proceed with civil and criminal prosecution as provided by law.

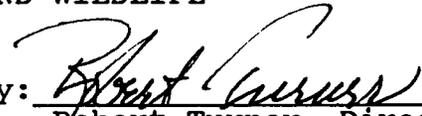
8. The undersigned parties declare that the terms of this settlement have been completely read and are fully understood and voluntarily accepted, for the purpose of making a final and fair settlement of any and all claims, disputed or otherwise.

9. This settlement agreement contains the entire agreement of the parties, but it shall not be binding upon the STATE OF WASHINGTON until accepted by the Washington Department of Fish and Wildlife.

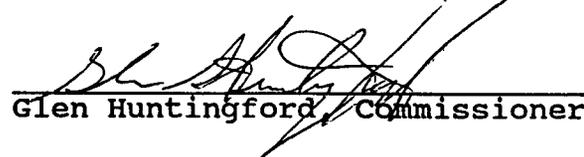
JEFFERSON COUNTY

By: 
Richard Wojt, Commissioner

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE

By: 
Robert Turner, Director

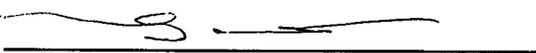

Robert Hinton, Commissioner


Glen Huntingford, Commissioner

Dated: 12/8/94

Dated: 12/7/94

Approved:


MARK HUTH
Prosecuting Attorney
Attorney for Jefferson County

Approved:


MARYLIN MOCKENSTURM
Assistant Attorney General
Attorney for WDFW