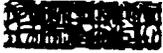


Robert Turner
Acting Director



RECEIVED

OCT 28 1992

HABITAT MGMT.

STATE OF WASHINGTON
DEPARTMENT OF FISHERIES

115 General Administration Building, M.S. AX-11 • Olympia, Washington 98504 • (206) 753-6600 • (SCAN) 234-6600

October 26, 1992

Mr. Gordon Zillges
Department of Wildlife
P.O. Box 43200
Olympia, Washington 98504-3200

Dear Mr. Zillges:

RE: FY92-14 "Woodland Creek Agreement"

Enclosed for your files is one fully executed original of the referenced Agreement.

The period of performance began on October 21, 1992 through the date specified in the Enhancement Plan. White Leasure is to pay Ecology \$500 as a penalty and Fisheries \$29,000 as a donation for enhancement of Woodland Creek.

Thank you for your help with expediting this Agreement.

If you have any questions, please call me at 902-2436.

Sincerely,

Denise C. Hurley
Deputy Contracts Officer
Contracts and Grants

DCH:wp

Enclosure

cc: Ginna Correa
Larry Cowan

WOODLAND CREEK AGREEMENT

FY93-14

This agreement made by and between the White-Leasure Development Company, 100 North 9th Street, Suite 300, P.O. Box 1277, Boise, ID, hereinafter called "White-Leasure", the Washington Department of Ecology, hereinafter called "Ecology", Washington Department of Wildlife, hereinafter called "Wildlife", Trout Unlimited, hereinafter called "TU", the City of Lacey, hereinafter called "Lacey", and the Washington Department of Fisheries, hereinafter called "Fisheries". The period of performance shall begin on the date of last signature and continue through the date specified in the Enhancement Plan (see Attachment "A").

Whereas, White-Leasure is the developer of the Martin Village shopping complex (Martin Village) located in Lacey, Washington;

Whereas, Woodland Creek and associated wetlands are adjacent to the Martin Village complex;

Whereas, Ecology has authority under Ch.90.48 RCW governing water quality in the state of Washington;

Whereas, Trout Unlimited is a nonprofit organization, dedicated to the protection, preservation and enhancement of cold water resources;

Whereas, Fisheries has authority to preserve, protect and enhance the food fish and shellfish resources in the state of Washington;

Whereas, Wildlife has authority to preserve, protect and enhance the game fish resources and wildlife in the state of Washington;

Whereas, Lacey has municipal authority over construction of Martin Village within Lacey;

Whereas, activity during construction of Martin Village led to a water quality violation (Ch. 173.20 WAC) resulting in a \$500 penalty levied against White Leasure by Ecology;

Whereas, in the interest of conservation of the fish resources and other valuable considerations, it is the desire of White Leasure to donate \$29,000 for Fisheries to perform enhancement work on Woodland Creek; and

-continued-

Whereas, it is deemed by the Parties to be in the best public interest to enter into an agreement to allow Fisheries to conduct habitat enhancement work on Woodland Creek utilizing the \$29,000 donated money; and

Now, therefore, in consideration of the times, conditions, covenants, and performances set forth below,

IT IS MUTUALLY AGREED:

I

White Leasure will:

1. Pay to Ecology a \$500 penalty for the water quality violations which occurred at the Martin Village site and donate \$9,000 to Fisheries to be used by Fisheries for habitat enhancement work on Woodland Creek.
2. Donate \$20,000 to Fisheries to be used by Fisheries for habitat enhancement work on Woodland Creek. This donation is in addition to the \$9,000 donation in paragraph one above. The total donation to Fisheries shall be \$29,000.
3. Make payment of the \$29,000 donation within 45 days upon execution of this agreement by check made payable to Department of Fisheries, P.O. Box 3142, Olympia, Washington 98504-3142.
4. Make payment of the \$500 penalty within 30 days of execution of this agreement by check made payable to Fiscal Cashier, Department of Ecology, P.O. Box 5128, Lacey, WA 98503-0210.

Ecology will:

1. Reduce the \$9,500 penalty to \$500 pursuant to paragraph 1 above; and agree to the terms and conditions set forth in this agreement as full settlement of the water quality violation and any environmental damages which resulted from the violation.
2. Promptly review and provide comments on the enhancement plan to be submitted by Fisheries.
3. Assign a project leader for this work.

-continued-

Fisheries will:

1. Agree to the terms and conditions set forth in this agreement as full settlement of the water quality violation, and any environmental damages which resulted from the violation.
2. Accept the \$29,000 donation and utilize it to locate, plan, design, permit, and install habitat enhancement projects on Woodland Creek, with primary emphasis on the reach downstream from its crossing with Martin Way to its crossing the Interstate 5.
3. Use the \$29,000 exclusively for the Woodland Creek enhancement work described herein.
4. Assign a project leader for this work.
5. Submit an enhancement plan to all parties by March 30, 1993 for review and approval. Fisheries will consider and amend as necessary the enhancement plan in responding to the comments of other parties. The plan will include dates by which the enhancement measures will be initiated, interim milestones, and a final date by which the enhancement measures will be completed. Said plan will become an attachment to this agreement and incorporated herein by reference (Attachment "A").
6. Fisheries will provide quarterly reports detailing the activities and expenditures under the enhancement plan.

Wildlife will:

1. Agree to the terms and conditions set forth in this agreement as full settlement of the water quality violation and any environmental damages which resulted from the violation.
2. Provide technical assistance to Fisheries as needed.
3. Promptly review and provide comments on the enhancement plan to be submitted by Fisheries.

Trout Unlimited will:

1. Agree to the terms and conditions set forth in this agreement as full settlement of the water quality violation and any environmental damages which resulted from the violation.

Lacey will:

1. Agree to the terms and conditions set forth in this agreement as full settlement of the water quality violation and any environmental damages which resulted from the violation.

II

CHANGES IN THE SCOPE OF WORK

In the event Fisheries determines that a substantial change from the Woodland Creek enhancement plan is required, Fisheries must secure written approval from all parties prior to the beginning of such work. Changes in the scope of work which may be considered could include modification of the enhancement plan to include wetland areas and other locations on the Woodland Creek corridor as specified in this agreement.

III

The Parties agree:

1. To the terms and conditions set forth in this agreement as full settlement of the water quality violation and any environmental damages which resulted from the violation.
2. This settlement agreement does not address any future impacts that may result from the Martin Village project. Ecology reserves the right to take any and all action necessary to address future impacts.
3. Each party to this agreement shall be responsible for damage to persons or property resulting from the negligence on the part of itself, its employees, its agents, or its officers. Neither party assumes any responsibility to another party for the consequences of any act or omission of any person, firm, or corporation not a party to this agreement.

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IV

LIABILITY

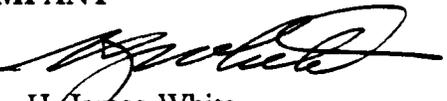
No liability shall attach to the Parties by reason of entering into this AGREEMENT except as expressly provided herein.

STATE OF WASHINGTON
DEPARTMENT OF FISHERIES

By: 
Loren Stern
Acting Assistant Director

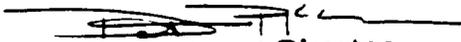
Date

WHITE LEASURE DEVELOPMENT
COMPANY

By: 
H. James White
President

Date

STATE OF WASHINGTON
DEPARTMENT OF WILDLIFE

By: 
Patricia McLain
Assistant Director

Date 10/21/92

CITY OF LACEY

By: 

Date 10-21-92

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By: 
William H. Backous, P.E.
Southwest Region Supervisor
Water Quality Programs

Date

TROUT UNLIMITED

By: 
Don Schluter
Environmental Coordinator

Date 10-21-92

APPROVED AS TO FORM

By:

Date