

## **Natural Resource Trustee Memorandum of Agreement for Port Gamble Bay and Mill Site**

### **I. Introduction: the Parties and the Site**

This Memorandum of Agreement (“MOA”) is entered into by and among the following governmental entities:

- The Port Gamble S’Klallam Tribe (“PGST”);
- The Lower Elwha Klallam Tribe (“Lower Elwha”);
- The Jamestown S’Klallam Tribe (“Jamestown”);
- The Skokomish Tribe (“Skokomish”);
- The Suquamish Tribe (“Suquamish”);
- The State of Washington, as represented by the Department of Ecology (“Ecology”); and
- The United States Department of the Interior (“DOI”), as represented by the U.S. Fish and Wildlife Service (“USFWS”).

These governmental entities are collectively referred to as the “Trustees.”

This MOA is applicable to the natural resources located at, in, or adjacent to Port Gamble Bay, Kitsap County, Washington, or affected by releases of hazardous substances from facilities located at or near Port Gamble Bay and Mill site (collectively, the “Site”).

### **II. Purpose and Scope**

The purpose of this MOA is to establish a process by which the Trustees will coordinate, cooperate in, and facilitate: (1) the assessment of damages for injuries to natural resources resulting from contamination at or from facilities at the Site; (2) the planning, designing, implementing, maintaining, and monitoring of actions to restore, rehabilitate, replace, or acquire the equivalent of those resources or services (collectively “Restoration”); (3) timely settlement or prosecution of natural resources damages claims associated with the Site against the Potentially Responsible Party or Parties (“PRP,” also referred to as Potentially Liable Party or Parties or “PLP”); and (4) managing natural resource damage recoveries and implementing joint damage assessment and Restoration actions. Trustee activities under this MOA may be referred to as natural resource damage assessment and Restoration (“NRDAR”) activities.

### **III. Authority**

The Trustees enter into this MOA under the following respective authorities:

- A. For DOI: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607(f) (“CERCLA”); the Oil Pollution Act of 1990, 33 U.S.C. § 2706(b) (“Oil Pollution Act” or “OPA”); the Clean Water Act 33 U.S.C. § 1321(f) (“Clean Water Act” or “CWA”); the National Oil and Hazardous Substances Pollution Contingency Plan,

40 C.F.R. Part 300, Subpart G (“National Contingency Plan” or “NCP”); the Natural Resource Damage Assessment Regulations, 43 C.F.R. Part 11 (“NRDA Regulations”); and Executive Order 12580.

- B. For Ecology: CERCLA; the Clean Water Act; the Oil Pollution Act; the National Contingency Plan; the NRDA Regulations; and the Model Toxics Control Act, RCW Chapter 70.105D (“MTCA”).
- C. For the Tribes: CERCLA; the Oil Pollution Act; the National Contingency Plan; and the NRDA Regulations.

Other federal, state, and tribal laws and regulations may also authorize this MOA.

#### **IV. Trustee Council Establishment, Responsibilities, and Procedures**

##### **A. Trustee Council**

The Port Gamble Bay Trustee Council (“Trustee Council” or “Council”) is hereby established to serve as the forum through which the Trustees will coordinate and facilitate their activities in connection with the Site. The designation “Trustee Council” is not intended to establish any obligations among the Trustees beyond what is expressly set forth in this MOA.

##### **B. Trustee Council Responsibilities**

The Trustee Council is responsible for the following activities:

1. Facilitating Trustee development and implementation of any NRDAR-related activities within the scope of this MOA;
2. Facilitating the development of joint Trustee positions regarding negotiation, settlement, and litigation of natural resources damages and Restoration;
3. Facilitating assessment and Restoration planning and contracting as set forth in Section VI.D;
4. Facilitating management of funds as set forth in Section VI.C;
5. Adopting such bylaws, statements of Trustee Council policy or position, cost accounting procedures or cost reimbursement guidelines as needed to further the purposes of this MOA;
6. Appointing a dedicated central point of contact (“CPOC”) for the Council who will serve as a conduit of information between the PRP(s) and the Council; and

7. Any other activities that the Trustees deem necessary to fulfill the Council's purpose and scope.

The Trustee Council may also facilitate Trustee review and comment on plans, proposals and work products developed by or under the direction of State or other remedial agencies that are connected to the assessment or Restoration of the natural resources that are the subject of this MOA. This facilitation may include but does not require the development of joint positions.

### **C. Trustee Council Meetings and Procedure**

The Trustee Council shall establish a regular meeting schedule and protocol, and necessary procedures not otherwise set forth in this MOA, including procedures for special or emergency meetings.

### **D. Lead Administrative Trustee and Chairperson**

There shall be a Lead Administrative Trustee ("LAT") responsible for managing and coordinating joint NRDAR activities for the Trustee Council. The duties of the LAT shall include:

1. Preparing such minutes, resolutions, and other documents as needed to record actions and decisions of the Trustee Council;
2. Maintaining the administrative record or records for any NRDAR activities, subject to the concurrence of the Council as to the inclusion of specific documents; and
3. Such other duties as agreed upon by the Trustee Council.

The LAT may delegate duties with the approval or at the direction of the Trustee Council.

The Trustees agree that the Port Gamble S'Klallam Tribe shall serve as the LAT. The Trustee Council may designate another Trustee as LAT, either on their own initiative or upon request or proposed delegation to another Trustee by the LAT.

A representative of the LAT will serve as the initial Chairperson for Trustee Council meetings. The Trustees may agree to reassign or rotate the position of Chairperson. The Chairperson, with the assistance of the LAT, will be responsible for and can delegate responsibility for organizing and scheduling meetings, preparing proposed agendas with input from other Trustee Council members, identifying in the agendas any issues to be voted upon at the proposed meeting, distributing agendas to the designated primary, alternate and legal representatives (if any) and presiding over convened meetings.

## **E. Trustee Council Representatives**

The Trustee Council shall be comprised of designated Trustee Council Representatives (“Council Representatives”) appointed by and authorized to vote on behalf of each Trustee. The primary and alternate voting Council Representatives for the Trustees are set forth in Appendix A to this MOA. An alternate voting Council Representative will act only in the absence of a primary voting Council Representative. The legal representatives of the Trustees, if any, are set forth in Appendix B to this MOA. Communications regarding Trustee Council business shall be addressed to each primary Council Representative and copied to each alternate Council Representative and legal representative (if any).

The Trustees agree to appoint Council Representatives who have the level of knowledge and expertise needed to effectively guide the damage assessment and Restoration process. The Trustees agree to appoint Council Representatives who have, at a minimum, the level of authority necessary to make decisions on issues presented in the NRDAR process or the ability to timely obtain authorization.

Council Representatives and legal representatives (if any) may attend or participate in any meeting of the Trustee Council, including meetings to resolve disputes under Section V below. Each Trustee shall have only one (1) vote on any Council decision. Any governmental officials, staff, and consultants who are not Authorized Officials, Council Representatives, legal representatives, or departmental staff of the Trustees may attend Trustee Council meetings only at the request of a Trustee and after execution of the Agreement to Be Bound by Memorandum of Agreement set forth in Appendix C. All agents of a Trustee or of the Trustees engaged in NRDAR activities related to the Site, including all signatories to Appendix C, shall be subject to all provisions of this MOA.

## **F. Trustee Council Decision-Making**

1. Trustee Council decisions shall be made by Consensus (defined below), except for a decision to invoke the dispute resolution provisions of Section V below. “Consensus” means adoption of a decision by an affirmative vote by all of the Council Representatives or by an affirmative vote by all but one (1) of the Council Representatives with the remaining Representative abstaining. The Trustee Council will conduct good faith discussions directed toward obtaining Consensus for each Council decision, and will seek to arrive at Consensus in an expeditious manner. The goal of the Council shall be to resolve disputes informally. In the event the Council cannot expeditiously arrive at a Consensus, the dispute resolution procedures of Section V below shall govern.
2. Trustee Council decisions may be recorded in writing, either by resolution signed by the authorized Council Representative(s) or in minutes approved as to content and form by the Council Representatives, provided that all decisions authorizing the expenditure of joint funds shall be memorialized in a resolution signed by the

authorized Council Representative(s). Budget and other documents describing any work to be performed will be attached to the resolution and maintained in the Trustee Council's administrative record. "Joint funds" means any funds received from a PRP or PRPs and committed to the Trustee Council's joint control.

3. Council decision-making deliberations and outcomes shall be guided by and consistent with the Trustees' mutual purposes of assessing damages for injuries to natural resources and their services and of Restoration.
4. A meeting of the Trustee Council may be convened by a telephone conference call. Should a Council Representative be unable to travel to a meeting, that Representative may participate by telephone conference as long as such facilities are available.

## **V. Dispute Resolution**

Any Trustee may invoke the dispute resolution process in Subsections A through C below to resolve disagreements and to minimize delays in the NRDAR process when the Council cannot expeditiously arrive at a Consensus as outlined in Section IV.F of this MOA. The dispute resolution shall take place not later than in accordance with the deadlines set forth below.

- A. Any Council Representative may initiate the formal dispute resolution process through notice to the other Council Representatives. Not later than fourteen (14) calendar days after notice is provided to the Council Representatives, the dispute will be referred to the signatories of this agreement ("Authorized Officials") or their designees, unless the Trustee Council has by then resolved the dispute.
- B. The Authorized Officials or their designees shall convene in person or by phone within ten (10) calendar days of the referral of the dispute and shall attempt to resolve the dispute within twenty-one (21) calendar days from the date of the referral.
- C. If a dispute remains unresolved twenty-one (21) days after referral to the Authorized Officials or their designees under Section V.B above, the Authorized Officials or their designees will resolve the matter or decide the appropriate forum or means for ultimate resolution.

## **VI. Natural Resource Damage Assessment and Recoveries**

### **A. Funding for Participation and Assessment Activities**

The Trustee Council may jointly enter into one or more funding and participation agreements with a PRP to fund the NRDAR-related activities. Any such agreement will address

the terms of the monetary disbursement and the level of PRP participation. The Trustees acknowledge that payments or promises of goods and services for their activities, made pursuant to any funding and participation agreement and for any purpose other than payment of the respective costs of each Trustee's participation, are intended for the joint and undivided use and benefit of all the Trustees acting under this MOA in planning, coordinating, and conducting joint Trustee Council NRDAR activities. Should any Trustee resign or withdraw from this MOA, that Trustee shall provide an accounting of all funds received and shall return to the Trustee Council the unobligated balance of (a) joint funds and (b) funds advanced to pay the departing Trustee's costs of participation.

In the absence of a funding and participation agreement, the Trustees will jointly evaluate the most effective means for recovery of their collective costs of participation and seek recovery of these costs through the Consent Decree or other agreement with one or more PRP(s). The Trustees acknowledge that each Trustee may seek individual reimbursement from any PRP for NRDAR-related activities unanimously approved by the Trustee Council but separately financed by the individual Trustee, which reimbursement shall be facilitated by the Consent Decree or other agreement. However, prior to seeking reimbursement, the Trustee will provide notice and an accounting of monies sought to the Trustee Council. Each Trustee will be responsible for maintaining an accounting for the costs of its participation. The LAT shall maintain an accounting for any agreed upon joint NRDAR activities. The Trustee Council and Trustees shall make every reasonable effort to minimize administrative costs.

#### **B. Settlement and Damages**

Trustee Council activities may result in recovery of funds (damages) due to the loss, injury, or destruction of natural resources or natural resource services as a result of releases of contamination from or at the Site. Any such damages that are recovered shall be used solely for Restoration or to reimburse the Trustees' reasonable costs of assessing and recovering damages and participating in Trustee Council activities. In accordance with the decision-making process set forth under Section IV.F, the Trustees shall establish standards and procedures governing the use of all natural resource damages received jointly by the Trustees for the purpose of developing and implementing Restoration. Restoration shall be consistent with Trustee Council approved plans to address natural resource injuries and, to the greatest extent practicable, Restoration shall have an ecosystem nexus and occur in geographic proximity to the injured resources and area of lost services.

#### **C. Management of Funds**

Prior to the receipt of any damages under Subsection B above or of any joint funds under a funding and participation agreement under Subsection A above, the Trustee Council shall adopt a resolution or comparable written decision (which may include the terms of a funding and participation agreement or a consent decree) to govern the management of such funds. The decision shall establish a process for requesting, receiving, disbursing, and maintaining an accounting of such funds, including a determination of the appropriate place for the deposit of

funds, recognizing that legal authority may restrict where such funds may be held. Any interest earned on such funds shall be credited to the Trustee Council and shall be subject to the terms of this MOA. No expenditure shall be permitted from such funds except to the extent consistent with this MOA, any agreement between the Trustees and a PRP, and any applicable law.

#### **D. Assessment and Restoration Planning and Contracting**

Assessment and Restoration actions pursuant to this MOA may be implemented by whichever Trustee or Trustees the Trustee Council shall designate, using Trustee work forces or contractors. Where joint funds will be used to pay for damage assessment and Restoration activities within the scope of this MOA, the Trustee Council must approve contractor selection, scopes of work, plans, budgets and deliverables. Where such activities will be paid for using an individual Trustee's funds, the Trustee Council may recommend contractors, scopes of work, plans, budgets and deliverables but the final decision shall be made by the funding Trustee. No Trustee shall be designated to perform any assessment or Restoration action or to expend any of its own funds without that Trustee's consent.

The Trustees shall prepare a Restoration plan or plans to guide Restoration actions undertaken by or under the direction of the Trustees pursuant to this MOA. Such actions shall be consistent with applicable laws, regulations and permits, the terms of applicable consent decrees and settlement agreements, this and other applicable MOAs, and Restoration plan(s) adopted under this MOA. The Trustees may enter into one or more separate memoranda of agreement, consistent with this and other applicable agreements, to define the roles and responsibilities of the Trustees regarding any Restoration project.

#### **VII. Communications and Settlement Negotiations**

It is the goal of the Trustees to work together cooperatively and to coordinate their communications and settlement discussions with any PRP regarding matters within the scope of this MOA. The Trustees agree to inform each other within five (5) working days of any oral or written communications to or from any PRP regarding proposed settlement or other disposition of natural resource damage claims associated with the Site. The Trustee Council may enter into settlement negotiations with a PRP for the purpose of resolving any natural resource damage claims. While a party to this MOA, no Trustee may conduct independent NRDAR settlement negotiations relating to the Site with a PRP with the exception of: (a) negotiations conducted by a Trustee for reimbursement of its costs of participation in accordance with Section VI.A of this MOA, or (b) negotiations agreed to in writing by the Trustee Council, or (c) negotiations pursuant to a reservation of rights relative to its trusteeship over natural resources in accordance with Section IX of this MOA. Any Trustee, prior to taking steps to engage in independent NRDAR settlement negotiations relating to the Site with a PRP and without the agreement of the Trustee Council, must withdraw from this MOA.

## VIII. Public Access to Information and Confidentiality

The Trustee status of the parties and the fact that they are coordinating under this MOA with respect to legal claims against the PRP or PRPs, and are engaging in activities to settle or prosecute such claims, give rise to a common interest and warrant that they carry out NRDAR activities and settlement negotiations in a coordinated fashion and that they protect the integrity of the claim determination and analysis process and the confidentiality of certain information and strategies to the extent provided by law. Accordingly, the Trustees may share among one another certain information and, to the maximum extent permitted by applicable law, hold it in confidence with respect to all third parties, such confidential information to include without limitation: legal strategies and theories; draft documents; deliberations both oral and as recorded in writing; proprietary information; and other confidences regarding the assessment and collection of natural resource damages associated with the Site (“Confidential Information”).

The Trustees agree that the sharing of such Confidential Information among Trustees is for the purpose of asserting common claims and asserting and protecting the rights and interests of respective clients of the legal representatives (if any) of the Trustees, and no other publication or use is authorized. The attorney-client, work-product, deliberative process, investigative, law enforcement, and other such privileges, disclosure exemptions and grants of confidentiality are intended to remain attached to Confidential Information and the sharing and exchange of such Confidential Information among Trustees does not waive any privilege, exemption, or confidentiality attaching thereto. A Trustee shall not release Confidential Information relative to the Trustees’ NRDAR processes and activities to a third party unless required by law. In the event that a Trustee has been petitioned to release such information to a third party, that Trustee shall immediately notify the Trustee Council and describe the information it believes it is required by law to release. The other Council Representatives shall have a reasonable opportunity to raise legal objections to the release of the information.

Whenever a Trustee shares Confidential Information with the other Trustees or the agents of any Trustee, including all signatories to Appendix C, the Trustee so sharing shall clearly mark any such information as “**Confidential and Privileged Communication; Do Not Release Without Authorization.**” Failure to so mark information does not preclude any Trustee from asserting all protections from disclosure available under this MOA or under law. The provisions of this Section regarding Confidential Information shall survive termination of this MOA or withdrawal therefrom by any Trustee; provided that, following termination or withdrawal, this Section shall not apply to any information that was in the possession of any Trustee prior to its entry into this MOA, or to the use by a Trustee of any information independently produced by that Trustee before and/or after the MOA is in effect.

The Trustees also recognize the public’s interest in scientific data and information developed during the damage assessment process and in the effective resolution of claims for injury to the environment and to public resources. Accordingly, the Trustee Council may, as appropriate, decide to release such information, including Confidential Information, after consultation with legal representatives (if any). The LAT will compile and maintain an



Administrative Record that documents and supports the Trustee Council's natural resource injury and Restoration determinations for the Site, subject to the concurrence of the Council Representatives as to the inclusion of specific documents and provided that this will be accomplished in a manner that does not compromise the integrity of the claim determination and settlement process or result in the premature release of Confidential Information.

## **IX. Reservation of Rights**

Except for the agreements set out herein, nothing in this MOA is intended to affect any Trustee's responsibilities, rights or interests or to establish any further legal rights or obligations as among the Trustees or their respective Council Representatives.

Nothing in this MOA is intended to establish any rights in third parties, including but not limited to judicial review of claimed acts or omissions of any Trustee. The rights or obligations of this MOA may not be the basis of any third party challenges or appeals.

Nothing in this MOA affects any Trustee's jurisdiction or authority relative to its trusteeship over natural resources.

This MOA does not waive the sovereign immunity of any signatory Trustee.

Nothing in this MOA authorizes any Trustee to enter into settlements on behalf of other Trustees, or to represent another Trustee in any litigation of natural resources damages claims associated with the Site against any PRP.

This MOA does not obligate any Trustee or its officers, agents, or employees to expend any funds in excess of appropriations authorized by law.

The Trustee Council shall have no authority to enter contracts binding upon any Trustee.

Nothing in this MOA is intended to be, nor shall it be construed to be, an admission by the Trustees in any dispute or action between the Trustees or between the Trustees and a third party. Nothing in this MOA is intended to be, nor shall it be construed to be, a waiver by the Trustees for any claims or defenses in any legal action, or any other rights or remedies.

## **X. Withdrawal, Amendment, and Termination**

- A. This MOA shall be in effect from the effective date until termination by approval of the Trustees party to the MOA at the time of termination. A Trustee may withdraw from the MOA, upon written notice provided to all Council Representatives at least ten (10) days in advance of the effective date of the withdrawal. In the event of such withdrawal, this MOA shall remain in full force and effect for the remaining Trustees.

- B. Upon termination of this MOA, the Trustees shall provide for a full and complete accounting of all funds received and expended pursuant to Section VI above.
- C. This MOA will be periodically reviewed by the Trustees and may be amended or modified by agreement of the Trustees. Any amendment or modification must be in writing and signed by all Trustees who are parties to the MOA at the time of amendment or modification.

**XI. Integration**

This MOA and its appendices are incorporated into this MOA and constitute the final agreement and understanding among the Trustees, unless modified pursuant to Section X.C.

**XII. Execution and Effective Date**

This MOA may be executed in counterparts. A copy of this MOA with all original signature pages affixed shall constitute the original MOA and shall be maintained by the LAT. The LAT shall provide copies of all signature pages to each Trustee that has approved this MOA. This MOA shall be effective with respect to any Trustee upon submission of that Trustee's executed signature page.

**XIII. Signatures**

The following Authorized Officials execute this MOA as representatives of their respective agencies, which act on behalf of the public as Trustees for natural resources and as representatives of tribal governments, which act as Trustees on behalf of their respective public interests. By signature below, each Trustee certifies that the individuals listed in this MOA and its appendices as representatives of the individual Trustees are authorized to act in their respective areas for matters related to this MOA.

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U. S. DEPARTMENT OF THE INTERIOR - U.S. FISH AND WILDLIFE SERVICE

*Robyn Thorson*

Robyn Thorson, Regional Director  
USFWS, Region 1

AUG - 7 2014

Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

WASHINGTON STATE DEPARTMENT OF ECOLOGY



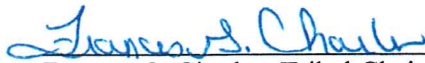
Maia D. Bellon  
Director


7/21/14  
Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

LOWER ELWHA KLALLAM TRIBE

  
\_\_\_\_\_  
Frances G. Charles, Tribal Chairperson


  
\_\_\_\_\_  
Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

JAMESTOWN S'KLALLAM TRIBE

  
\_\_\_\_\_  
W. Ron Allen, Tribal Chairman/CEO

  
\_\_\_\_\_  
Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

PORT GAMBLE S'KLALLAM TRIBE

  
\_\_\_\_\_  
Jeromy Sullivan, Tribal Chairman

July 31, 2014  
Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

SKOKOMISH TRIBE

*Charles Miller*  
Charles "Guy" Miller, Tribal Chairman

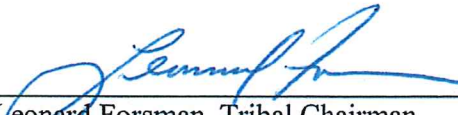
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Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014



SUQUAMISH TRIBE

  
\_\_\_\_\_  
Leonard Forsman, Tribal Chairman

7/21/14  
\_\_\_\_\_  
Date

Natural Resource Trustees MOA for Port Gamble Bay

July 18, 2014

## Appendix A

The Council Representatives who shall act as primary and alternate voting representatives for the Trustees pursuant to the foregoing Memorandum of Agreement are as follows:

Lower Elwha Primary: Matt Beirne, Program Coordinator/Environmental Quality  
Lower Elwha Klallam Tribe  
2851 Lower Elwha Road  
Port Angeles, WA 98363  
[matt.beirne@elwha.nsn.us](mailto:matt.beirne@elwha.nsn.us)  
360-452-8471, ext. 7480

Alternate: Larry Dunn, Cleanup Project Manager  
Lower Elwha Klallam Tribe  
2851 Lower Elwha Road  
Port Angeles, WA 98363  
[larry.dunn@elwha.nsn.us](mailto:larry.dunn@elwha.nsn.us)  
360-457-4012, ext. 7428

PGST Primary: Paul McCollum, Natural Resources Director  
Port Gamble S'Klallam Tribe  
31912 Little Boston Road NE  
Kingston, WA 98346  
[paulm@pgst.nsn.us](mailto:paulm@pgst.nsn.us)  
360-297-6297

Alternate: Roma Call, Environmental Coordinator  
Port Gamble S'Klallam Tribe  
31912 Little Boston Road NE  
Kingston, WA 98346  
[romac@pgst.nsn.us](mailto:romac@pgst.nsn.us)  
360-297-2646

Jamestown Primary: Scott Chitwood, Natural Resource Manager  
Jamestown S'Klallam Tribe  
1033 Old Blyn Highway  
Sequim, WA 98382  
[schitwood@jamestowntribe.org](mailto:schitwood@jamestowntribe.org)  
360-681-4616

Alternate: Thom Johnson, Environmental Program Manager  
Point No Point Treaty Council  
7999 NE Salish Lane  
Kingston, WA 98346  
[tjohnson@pnptc.org](mailto:tjohnson@pnptc.org)  
360-297-6532

Alternate: Cynthia Rossi, Lead Habitat Biologist  
Point No Point Treaty Council  
7999 NE Salish Lane  
Kingston, WA 98346  
[crossi@pnptc.org](mailto:crossi@pnptc.org)  
360-297-6534

Skokomish Primary: Joseph Pavel, Natural Resources Director  
Skokomish Tribal Nation  
N 80 Tribal Center Road  
Skokomish, WA 98584  
[jpavel@skokomish.org](mailto:jpavel@skokomish.org)  
360-877-5213, ext. 2206

Alternate: Alex Gouley, Habitat Manager  
Skokomish Tribal Nation  
N 80 Tribal Center Road  
Skokomish, WA 98584  
[agouley@skokomish.org](mailto:agouley@skokomish.org)  
360-877-5213, ext. 2207

Suquamish Primary: Richard Brooks, Environmental Program Manager  
Suquamish Tribe  
PO Box 498  
18490 Suquamish Way  
Suquamish, WA 98392  
[rbrooks@suquamish.nsn.us](mailto:rbrooks@suquamish.nsn.us)  
360-394-8442

Alternate: Rob Purser, Fisheries Director  
Suquamish Tribe  
PO Box 498  
18490 Suquamish Way  
Suquamish, WA 98392  
[rpurser@suquamish.nsn.us](mailto:rpurser@suquamish.nsn.us)  
360-394-8436

Ecology Primary: Celina Abercrombie, Environmental Specialist  
Department of Ecology  
Toxics Cleanup Program  
PO Box 47600  
Olympia, WA 98504-7600  
ceab461@ecy.wa.gov  
360-407-6285

Alternate: Donna Podger, Environmental Engineer  
Department of Ecology  
Toxics Cleanup Program  
PO Box 47600  
Olympia, WA 98504-7600  
[dpod461@ecy.wa.gov](mailto:dpod461@ecy.wa.gov)  
360-407-7016

DOI Primary: Jeff Krausman, Fish & Wildlife Biologist/NRDA Specialist  
U.S. Fish and Wildlife Service  
WA Fish and Wildlife Office  
510 Desmond Drive SE, Suite 102  
Lacey, WA 98503  
[jeff\\_krausmann@fws.gov](mailto:jeff_krausmann@fws.gov)  
360-753-6053

Alternate: Cindy Schexnider, Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service  
WA Fish and Wildlife Office  
510 Desmond Drive SE, Suite 102  
Lacey, WA 98503  
[cindy\\_schexnider@fws.gov](mailto:cindy_schexnider@fws.gov)  
360-753-4324

Any of the above Council Representatives may identify a designee to serve on his or her behalf, or the Trustee may designate new Council Representatives. A Trustee shall provide written notice of the designation of a new Council Representative(s) by written notice, pursuant to Section IV.E of the forgoing MOA. In the event that any of the above Council Representatives no longer serves in his or her position when needed to carry out Council voting functions, his or her alternate may serve instead.

## Appendix B

The legal representatives (if any) of the Trustees for purposes of the foregoing Memorandum of Agreement (“MOA”) are as follows:

Lower Elwha: Steve Suagee  
Lower Elwha Klallam Tribe  
Office of General Counsel  
2851 Lower Elwha Road  
Port Angeles, WA 98363  
[steve.suagee@elwha.nsn.us](mailto:steve.suagee@elwha.nsn.us)  
360-452-8471, ext. 7435

PGST: John Sledd  
Kanji & Katzen, PLLC  
401 2nd Ave. S., Suite 700  
Seattle, WA 98104  
[jsledd@kanjikatzen.com](mailto:jsledd@kanjikatzen.com)  
206-344-8100 x102

Jamestown: Lauren Rasmussen  
Law Offices of Lauren P. Rasmussen, PLLC  
1904 3rd Ave  
Securities Bldg., Suite 1030  
Seattle, WA 98101-1170  
[lauren@rasmussen-law.com](mailto:lauren@rasmussen-law.com)  
(206) 623-0900

Skokomish: Earle Lees  
Skokomish Tribal Attorney's Office  
North 80 Tribal Center Road  
Skokomish Nation, WA 98584  
[elees@skokomish.org](mailto:elees@skokomish.org)  
(360) 877-2100

Suquamish: Melody Allen  
Suquamish Tribe  
Office of Tribal Attorney  
PO Box 498  
18490 Suquamish Way  
Suquamish, WA 98392  
[mallen@suquamish.nsn.us](mailto:mallen@suquamish.nsn.us)  
360-394-8488

Ecology: Leslie Seffern  
Office of Attorney General  
2425 Bristol Ct. SW  
Olympia, WA 98504-0117  
[leslies@atg.wa.gov](mailto:leslies@atg.wa.gov)  
360-586-4613

USFWS: Deirdre F. Donahue  
U.S. Department of the Interior  
Office of the Solicitor  
805 SW Broadway, Suite 600  
Portland, OR 97205  
[deirdre.donahue@sol.doi.gov](mailto:deirdre.donahue@sol.doi.gov)  
503-231-6157

Any of the above legal representatives may identify in writing a designee to serve on his or her behalf, or a Trustee may appoint a new legal representative and shall notify the Trustees regarding said appointment pursuant to Section IV.E of the foregoing MOA. In the event that any of the above legal representatives no longer serves in such capacity when needed to carry out functions relating to the MOA, his or her successor in that position may serve instead.

## Appendix C

### AGREEMENT TO BE BOUND BY MEMORANDUM OF AGREEMENT

A. My name is \_\_\_\_\_.

I am the \_\_\_\_\_ [Principal/Executive Director] for

\_\_\_\_\_ [Company/Commission/Department]

\_\_\_\_\_ [Street Address]

\_\_\_\_\_ [City, State, Zip Code]

I have the authority to act on behalf of this [Company/Commission/Department] and to bind it and its employees to enforceable contractual agreements.

B. The [Company/Commission/Department] has been contacted by

\_\_\_\_\_,  
[a Trustee/Trustees] party to the NATURAL RESOURCE TRUSTEE MEMORANDUM OF AGREEMENT FOR PORT GAMBLE BAY AND MILL SITE (the "MOA"), to provide technical expertise and advice in preparing materials in anticipation of and in preparation for the natural resource damages assessment and restoration (the "NRDAR") at the Port Gamble Bay and Mill site (the "Site") and/or in connection with the related NRDAR settlement or trial, which materials may contain the mental impressions, conclusions, opinions or legal theories of the attorney(s) of the [Trustee/Trustees].

C. The term "Confidential Information" as used in this AGREEMENT TO BE BOUND BY MEMORANDUM OF AGREEMENT shall have the same meaning as set forth in Section VIII of the MOA and shall include without limitation: legal strategies and theories; draft documents; deliberations both oral and as recorded in writing; proprietary information; and other confidences regarding the assessment and collection of natural resource damages associated with the Site.

D. The [Company/Commission/Department] has received a copy of the MOA, a copy of which is attached hereto. The [Company/Commission/Department] and its employees understand the provisions of the MOA, and will comply with and be bound by its provisions. The [Company/Commission/Department] and its employees agree to use Confidential Information solely in consulting with the above-listed Trustee(s) and solely for the purposes set forth in Section VIII of the MOA. The [Company/Commission/ Department] and its employees agree not to communicate Confidential Information in any manner to anyone other than a person qualified to receive such information under the terms of the MOA, as specified in Sections IV.A and IV.E of the MOA. The [Company/Commission/ Department] and its employees further agree that upon termination of their provision of the services described in

Paragraph B above, or sooner if so requested, they shall cease use of Confidential Information and, within three (3) business days of receiving notice, shall return all Confidential Information provided to them, including all copies and excerpts thereof.

On behalf of the [Company/Commission/Department] and its employees, I declare under penalty of perjury that the foregoing is true and correct.

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Signature

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Date