



LOWER ELWHA TRIBAL COUNCIL

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January 22, 2010

Ted Sturdevant, Director
Washington State Department of Ecology
Post Office Box 47600
Olympia, WA 98504-7600

Subject: Remedial Action by Rayonier LLC, Concurrence with Agreed
Order No. DE 6815

Dear Mr. Sturdevant:

This letter serves as the Lower Elwha Klallam Tribe's concurrence, with qualifications as explained herein, in the above referenced Agreed Order No. DE 6815 ("AO"). As you know, the Lower Elwha Tribe ("Tribe") and the Department of Ecology ("Ecology") are party to two inter-governmental agreements providing for the Tribe's participation in the investigation and cleanup of the Rayonier Mill Site on Port Angeles Harbor. Our March, 1999, Preliminary Agreement requires the Department of Ecology to "seek the Tribe's concurrence at all major decision points," including "drafting of the RI/FS Workplan." Our May, 2000, Deferral Agreement, which also includes the U.S. Environmental Protection Agency, requires compliance with the Preliminary Agreement as condition of EPA's deferral of the Site to the State and further provides that "Ecology will not move forward with a proposed cleanup decision without the Tribe's concurrence." Ecology's approval of the AO is clearly the type of decision for which the Tribe's concurrence is required, and we are pleased to be able to provide that concurrence.

In the view of the Lower Elwha Klallam Tribe, AO No. DE 6815 marks the first time since this cleanup process began over a decade ago that a specific work plan has been accompanied by an enforceable project schedule. While we believe some of the AO's time frames for Rayonier's completion of deliverables are unduly protracted, we are confident that Ecology is correct in concluding that overall this is a schedule that can actually be adhered to, if not improved upon, during implementation. Thus we are optimistic that this could represent a catalyst-like milestone in what has been an arduously long cleanup process.

The Tribe welcomes and supports Ecology's delineation in the AO of a "Study Area," in which to develop a Cleanup Action Plan, as a means of expediting the cleanup process. In addition, we appreciate the AO's provision that Rayonier is to consider cleanup strategies that conjunctively promote habitat restoration, and

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believe it could lead to interim actions that further the restoration of Ennis Creek. We look forward to exploring those possibilities with Rayonier and Ecology during the implementation of the AO and encourage both parties to identify potential interim cleanup actions and complete them to the extent possible within this schedule. This is particularly important for the log pond and vicinity, pier, and Ennis Creek stream corridor. The remediation of the Ennis Creek corridor, in particular, could facilitate the initiation of restoration activities that are currently in the conceptual planning stages at this time.

As noted above, the Tribe's concurrence in the AO is qualified by its concerns regarding the extended nature of the schedule. The schedule appears to include excessively long time frames for the completion of the draft interim action plans and the accompanying agency and public review periods. For example, due to the wealth of data collected in recent years regarding the uplands, we would expect the upland action plan to be completed much sooner than scheduled. We encourage Ecology and Rayonier to work expeditiously to complete the tasks identified in the scope of work and make every effort to complete these tasks earlier than scheduled. The Tribe anticipates ongoing participation in review of all draft deliverables, and in working directly with Ecology and Rayonier to implement the AO. We are committed to facilitating timely, even expedited, completion of all elements of the AO.

In closing, we appreciate the opportunity to consult with Ecology during the preparation of the AO. We greatly value our working relationship with Ecology, and with Rayonier, and especially appreciate the professionalism and diligence of the Ecology working team assigned to this important project. As you know, this project has profound implications for the cultural patrimony of the Lower Elwha Klallam Tribe and for treaty resources over which the Tribe has jurisdiction under federal law. We look forward to working constructively with Ecology, Rayonier, and the greater Port Angeles community in completing this work plan.

Sincerely,



Frances G. Charles
Tribal Chairwoman

cc: Rebecca Lawson
Melissa Rourke
Marian Abbett