

HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON, et al.,

Defendants.

No. C70-9213
Subproceeding: 01-1

**JOINT MOTION FOR REFERRAL TO
MEDIATION**

NOTE FOR MOTION: March 18, 2025

The parties respectfully request the Court’s referral to mediation concerning the 2013 Permanent Injunction Regarding Culvert Correction (the “Injunction”). Dkt. #753. Mediation would take place pursuant to Local Civil Rule 39.1(a)(6), the Uniform Mediation Act, Chapter 7.07 RCW, and Rule 408 of the Federal Rules of Evidence. In support of the motion, the undersigned parties state the following:

1. Paragraph 6 of the Injunction requires that, “Within 17 years of the date of this injunction, the [Washington State Department of Transportation (“WSDOT”)] shall provide fish passage in accordance with the standards set out in this injunction at each barrier culvert on the List owned or managed by WSDOT if the barrier culvert has 200 lineal meters or more of salmon habitat upstream to the first natural passage barrier.” Dkt. #753 at p. 3. The “List” was submitted to the Court on September 27, 2013. Dkts. #779, 779-1. *See also* Dkt. # 752 (FOF 27-28).

2. Paragraph 8 of the Injunction reads in part, “Notwithstanding the provisions of paragraph 6, above, WSDOT may defer correction of an aggregation of culverts that cumulatively comprise barriers to no more than 10% of the total salmon habitat upstream of those WSDOT culverts that would otherwise be subject to correction on the schedule set forth in Paragraph 6” Dkt. #753 at p. 3.
3. Thus, the Injunction requires that, by 2030, WSDOT correct barrier culverts on the List of culverts blocking 200 or more lineal meters of salmon habitat such that, cumulatively, 90% of the total habitat blocked by culverts on the List is opened.
4. In June 2024, WSDOT informed Tribal Plaintiffs that the agency does not expect to meet the Injunction requirement to open 90% of potential habitat by 2030.
5. Paragraph 14 of the Injunction provides that: “The Court shall retain continuing jurisdiction over this subproceeding for a sufficient period to assure that the Defendants comply with the terms of this injunction.” Dkt. #753 at p. 5.

Dated: February 25, 2025.

s/ Jane G. Steadman

Jane G. Steadman, WSBA #44395
Claire R. Newman, WSBA #46200
KANJI & KATZEN, P.L.L.C.
811 1st Avenue, Suite 640
Seattle, WA 98104
(206) 344-8100
jsteadman@kanjikatzen.com
cnewman@kanjikatzen.com

Attorneys for Hoh Tribe, Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble S’Klallam Tribe, and Suquamish Tribe

s/ Lauren P. Rasmussen

Lauren P. Rasmussen, WSBA #33256
LAW OFFICES OF LAUREN P. RASMUSSEN, PLLC
1215 Fourth Avenue, Suite 1350
Seattle, WA 98161

s/ Amalia R. Walton

Amalia R. Walton, WSBA #36754
David W. Babcock, WSBA #31737
SQUAXIN ISLAND LEGAL DEPARTMENT
3711 SE Old Olympic Hwy
Shelton, WA 98584
(360) 432-1771
awalton@squaxin.us
dbabcock@squaxin.us

Attorneys for Squaxin Island Tribe

s/ Tyler J. Eastman

Tyler J. Eastman, WSBA #59147
OFFICE OF THE RESERVATION ATTORNEY
Tulalip Tribes
6406 Marine Dr
Tulalip, WA 98271
(360) 716-4551
teastman@tulaliptribes-nsn.gov

JOINT MOTION FOR REFERRAL TO MEDIATION- 2

(206) 623-0900
lauren@rasmussen-law.com

*Attorney for Jamestown S’Klallam Tribe and Port
Gamble S’Klallam Tribe*

s/ Brian Gruber
Brian Gruber, WSBA #32210
ZIONTZ CHESTNUT LLP
2101 Fourth Avenue, Suite 1230
Seattle, WA 98121
(206) 448-1230
bgruber@ziontzchestnut.com

Attorney for Makah Indian Tribe

s/ Emily Haley
Emily Haley, WSBA #38284
OFFICE OF THE TRIBAL ATTORNEY
Swinomish Indian Tribal Community
11404 Moorage Way
La Conner, WA 98257
(360) 466-1134
ehaley@swinomish.nsn.us

Attorney for Swinomish Indian Tribal Community

s/ Gabriel D. Cantu
Gabriel D. Cantu, WSBA #52733
OFFICE OF THE RESERVATION ATTORNEY
Lummi Indian Business Council
2665 Kwina Road
Bellingham, Washington 98226
(360) 384-7110
gabrielc@lummi-nsn.gov

Attorney for Lummi Nation

s/ Charles N. Hurt, Jr.
Charles N. Hurt, Jr., WSBA #46217
Nooksack Indian Tribe
5047 Mt Baker Hwy, PO Box 63
Deming, WA 98244
(360) 592-4158
churt@nooksack-nsn.gov

s/ Thomas P. Schlosser

s/ Julie A. Weis
Julie A. Weis, WSBA #43427
HAGLUND KELLEY LLP
2177 SW Broadway
Portland, OR 97201
(503) 225-0777
weis@hk-law.com

Attorneys for Tulalip Tribes

s/ Trent S.W. Crable
Trent S.W. Crable, WSBA #38227
OFFICE OF THE TRIBAL ATTORNEY
Muckleshoot Indian Tribe
39015 172nd Avenue SE
Auburn, WA 98092
(253) 876-3185
trent.crable@muckleshoot.nsn.us

Attorney for Muckleshoot Indian Tribe

s/ Samuel J. Stiltner
Samuel J. Stiltner, WSBA #7765
LAW OFFICE, PUYALLUP TRIBE OF INDIANS
3009 Portland Avenue
Tacoma, WA 98404
(253) 573-7875
Sam.Stiltner@PuyallupTribe-nsn.gov

Attorney for Puyallup Tribe of Indians

s/ Maia Bellon
Maia Bellon, WSBA #24777
Louis Russell, WSBA #55632
CASCADIA LAW GROUP PLLC
1201 Third Avenue, Suite 320
Seattle, Washington 98101
(206) 292-6300
mbellon@cascadialaw.com
lrussell@cascadialaw.com

Attorneys for Nisqually Indian Tribe

s/ Kelly Mennemeier
Kelly Mennemeier, WSBA #51838
Chloe Villagomez, WSBA #43732
FOSTER GARVEY P.C.
1111 Third Avenue, Suite 3000
Seattle, Washington 98101
(206) 447-4400
Kelly.mennemeier@foster.com
chloe.villagomez@foster.com

1 Thomas P. Schlosser, WSBA #6276
2 MORISSET, SCHLOSSER, JOZWIAK, &
3 SOMERVILLE
4 811 1st Ave., Ste. 218
5 Seattle, WA 98104
6 (206) 386 5200
7 t.schlosser@msaj.com

8 *Attorneys for Nooksack Indian Tribe*

9 s/ Lori Bruner

10 Lori Bruner, WSBA #26652
11 OFFICE OF ATTORNEY GENERAL
12 Quinault Indian Nation
13 PO Box 613
14 Taholah, WA 98587-0613
15 (360) 276-8215 EXT 1400
16 Lbruner@quinault.org

17 s/ Eric Nielsen

18 Eric Nielsen, WSBA #12773
19 2200 Sixth Avenue, Suite 1250
20 Seattle, Washington 98121
21 nielsene@nwattorney.net

22 *Attorney for Quinault Indian Nation*

23 s/ Jack Warren Fiander

24 Jack Warren Fiander, WSBA #13116
25 TOWTNUK LAW OFFICES LTD
SACRED GROUND LEGAL SERVICES INC
5808A Summitview Avenue, Ste 93
Yakima, WA 98908
(509) 969-4436
townuklaw@msn.com

Attorney for Sauk-Suiattle Indian Tribe

s/ Kathryn E. Marckworth

Kathryn E. Marckworth, WSBA #46964
Nicholas J. Kahmann, WSBA #60602
YAKAMA NATION OFFICE OF LEGAL COUNSEL
PO Box 150 / 401 Fort Road
Toppenish, WA 98948
(509) 865-7268
kate@yakamanation-olc.org
nick@yakamanation-olc.org

Attorneys for Yakama Nation

Attorneys for Quileute Tribe

s/ Raven Arroway-Healing

Raven Arroway-Healing, WSBA #42373
Stillaguamish Tribe of Indians
3322 - 236th St NE
Arlington, WA 98223
(360) 572-3074
rhealing@stillaguamish.com

Attorney for Stillaguamish Tribe of Indians

s/ Earle David Lees, III

Earle David Lees, III, WSBA #30017
SKOKOMISH LEGAL DEPARTMENT
Skokomish Indian Tribe
N. 80 Tribal Center Road
Skokomish Nation, WA 98584
(360) 877-2100
elees@skokomish.org

Attorney for Skokomish Indian Tribe

s/ David S. Hawkins

David S. Hawkins, WSBA #35370
25944 Community Plaza Way
Sedro-Woolley, WA 98284
(360) 854-7090
dhawkins@upperskagit.com

Attorney for Upper Skagit Indian Tribe

Nicholas W. Brown
Attorney General

s/ Noah Guzzo Purcell

Noah Guzzo Purcell, WSBA #43492
Solicitor General
ATTORNEY GENERAL'S OFFICE
PO Box 40110
Olympia, WA 98504
360-664-0869
Noah.Purcell@atg.wa.gov

Attorneys for State of Washington