

**MEMORANDUM OF AGREEMENT BETWEEN THE WASHINGTON DEPARTMENT
OF FISH & WILDLIFE AND THE SQUAXIN ISLAND TRIBE REGARDING
COMMERCIAL TREATY FISH TRANSACTIONS**

March 1, 2013

1. PREAMBLE AND PURPOSE

1.1. This Memorandum of Understanding ("Agreement") is between the Washington Department of Fish and Wildlife ("WDFW") and the Squaxin Island Tribe ("Tribe"), hereinafter individually referred to as a "Party" and collectively as the "Parties."

1.2. The Parties come to this Agreement pursuant to, among other authorities, the Centennial Accord; the New Millennium Agreement; the InterLocal Cooperation Act, Chapter 39.34 RCW; the Treaty of Medicine Creek, 10 Stat. 1132; and the federal law set forth in *United States v. Washington*, No. C70-9213.

1.3. The Parties desire that all harvesters and all buyers properly document and timely report commercial transactions on fish tickets and that this information is made available on a timely basis to ensure effective management of state and tribal fisheries.

1.4. The Parties desire that the enforcement authorities of the State and Tribe will be provided with a basis to ensure that there is full compliance by harvesters and buyers with regulations adopted by the Parties related to licensing, documentation and timely reporting of commercial transactions.

2. TERM

2.1. The term of this Agreement shall be five years unless terminated by either Party as provided in this Agreement, and may be renewed by written agreement of the Parties.

2.2. Either Party may terminate this Agreement at any time by providing written notice of termination. Termination shall be effective immediately upon receipt of the written notice.

3. SCOPE OF AGREEMENT

3.1. This Agreement addresses licensing, regulation and enforcement activities relating to commercial transactions involving fish or shellfish. The Agreement covers both commercial transactions involving Treaty fish taken from the usual and accustomed fishing grounds and stations ("U&A") of federally recognized Indian Tribes and commercial transactions involving fish or shellfish that are taken by non-Indian harvesters. This Agreement does not address harvesting of fish or shellfish.

4. DEFINITIONS

4.1. "Treaty Fish" are defined as finfish, shellfish and other aquatic or marine resources that are lawfully harvested pursuant to any Indian Tribe's treaty reserved fishing right, and products made from these resources.

4.2. "Squaxin Harvester" refers to any person lawfully engaged in a treaty fishery opened by the Squaxin Island Tribe.

4.3. "Squaxin Buyer" means any person who is an enrolled Squaxin member or his or her majority-owned business, or a buyer that is a business majority-owned by the Squaxin Island Tribe, that is engaged in the purchase of finfish or shellfish and who is operating under a fish buyer license issued by the Squaxin Island Tribe in accordance with the provisions of this Agreement. The term also includes bona fide employees of a Squaxin Buyer when acting in their role as an employee and purchasing fish in that role on behalf of the Squaxin Buyer licensed by the Squaxin Island Tribe.

5. LICENSING, REGULATION AND ENFORCEMENT

The Parties agree to apply their licensing, regulatory and enforcement authorities as follows:

Licensing and Regulation of Sales of Fish by a Squaxin Harvester

5.1. Upon request, Squaxin Harvesters must provide tribal Identification to a WDFW Enforcement Officer.

5.2. Once a person is identified as a Squaxin Harvester, WDFW will assert no licensing or regulatory authority over the Squaxin Harvester's sale of his or her own lawfully harvested catch. Nothing in this Agreement is intended to preclude contacts by WDFW enforcement personnel as a normal incident to effective monitoring of all fisheries.

Licensing and Regulation of Purchases/Sales of Fish by Squaxin Buyers

5.3. Upon request, Squaxin Buyers must provide to a WDFW Enforcement Officer either (1) a current Squaxin Tribal Buyer license or (2) a current state wholesale fish dealer's license.

5.4. The Tribe will issue a Squaxin Buyer license to all prospective Squaxin Buyers according to the Tribe's Commercial Fish Buyer's Code. This licensing system must provide a unique fish buyer card to each individual that qualifies as a Squaxin Buyer entitled to purchase fish on behalf of the licensed entity. The buyer card shall identify the licensed entity by name, the name of the individual (as owner or employee) that is entitled to operate as a Squaxin Buyer for the licensed entity, together with a unique numerical identifier for each buyer card.

5.5. When purchasing any Treaty Fish, Squaxin Buyers will not be required to possess a state wholesale fish dealer's license or performance bond if the Squaxin Buyer has in their possession at the time of the transaction evidence of a valid Squaxin Buyer

license in the form of the buyer card specified in paragraph 5.4, and the Squaxin Buyer is on the current list of Squaxin Buyer licensees provided to WDFW. WDFW may inspect all commercial fish transactions undertaken by any fish buyers, regardless of who licenses the buyer. The application and enforcement of state or tribal regulations governing the conduct of Squaxin Buyers purchasing Treaty Fish is addressed in Section 6 of this Agreement.

5.6. In all circumstances where a Squaxin Buyer purchases fish other than Treaty Fish, a state wholesale fish dealer's license is required; all state regulatory requirements will be enforced by DFW.

6. COOPERATIVE MANAGEMENT OF COMMERCIAL FISH TRANSACTIONS

Records and Information Sharing

6.1. The Parties shall have mutual access, upon request, to each other's licensing files for investigatory purposes, including the review of fish tickets and other catch reporting records, at their respective offices.

6.2. The Tribe agrees to maintain and continually update a list of licensed Squaxin Buyers including each buyer card issued on behalf of the licensed entity. The list of Squaxin Buyers shall contain identifying information including the name of the licensee, the address and phone number of the licensed entity, and the information associated with each buyer card issued on behalf of the licensed entity. The Tribe shall provide WDFW with a current list of Squaxin Buyers licensed by the Tribe that includes the aforementioned information.

6.3. WDFW shall inform the Tribe about all incidents involving Squaxin Buyers so that the Tribe may maintain complete records and take appropriate action.

6.4. The Tribe shall provide WDFW with current Tribal regulations including its Commercial Fish Buyer's Code and violation penalties, and will promptly inform WDFW of any amendments to the Code.

Development of Regulations and Enforcement Protocols

6.5. The Parties agree that management of fishery resources requires an effective catch reporting regime providing co-managers with timely and accurate records that can be verified and cross checked. The Parties also agree that a system of regulation and enforcement is needed to ensure that objectives of this catch reporting regime are fulfilled. To be effective, this system should utilize coordinated regulatory requirements together with enforcement mechanisms directed at the discovery and deterrence of conduct that fails to conform to regulatory requirements.

6.6. To facilitate the objective agreed upon in Section 6.5, the Parties shall schedule annual enforcement meetings, as needed, to:

6.6.1. Share information about the licensing, regulation and enforcement of commercial fish transactions;

6.6.2. Identify appropriate regulatory objectives regarding commercial fish transactions;

6.6.3. Identify and address inconsistent regulatory requirements regarding commercial fish transactions; and

6.6.4. Develop coordinated regulatory requirements and cooperative and joint enforcement activities regarding commercial fish transactions.

6.7. In connection with the development of coordinated regulatory requirements and enforcement activities, the Parties shall develop a set of enforcement protocols that identify when state or tribal regulations should be applied and when specific enforcement matters should be referred to a particular Party's enforcement jurisdiction.

6.8. During the period of time while this system of regulation and enforcement is under development, the Parties reserve the right to apply their existing regulations and their existing jurisdictional authorities (except as specifically addressed in Sections 5.2 and 5.5). Future agreed limits on the exercise of regulatory or jurisdictional authorities shall be set out expressly in amendments to this Agreement or in separate written agreements.

6.9. Recognizing that there may be disputes over the authorities each party may exercise, the Parties agree to share information and confer about enforcement matters that may implicate overlapping areas of jurisdiction in order to maintain the spirit of this Agreement and the desire to move forward and make progress with the objectives set forth herein.

7. DISPUTE RESOLUTION

7.1. The Parties shall seek to resolve disputes arising under this Agreement as quickly as possible.

7.2. Dispute resolution is initiated whenever either Party provides the other with written notice of any Dispute ("Dispute Notice").

7.3. Within ten (10) working days of the Dispute Notice, the Parties shall meet to negotiate in good faith to resolve the Dispute.

8. MISCELLANEOUS

8.1. This Agreement shall be modified or amended only through the written agreement of both Parties.

8.2. Reservation of Legal Rights.

8.2.1. No Party waives or concedes any claim or legal argument with respect to the nature, scope, use or boundary of the treaty fishing right, or State or tribal jurisdiction. The fact that this Agreement does not address a particular issue shall not be construed as establishing or affecting either the existence or nonexistence of such right or jurisdiction.

8.2.2. Nothing in this Agreement shall prevent or limit the right of either Party to file, participate in, or frame arguments in litigation.

8.2.3. Nothing in this Agreement shall be an admission of any fact or limitation on, or with respect to, State or tribal jurisdiction or management authority or any tribal fishing right in any judicial, quasi-judicial, administrative, or other proceeding.

8.2.4. By signing this Agreement, no Party waives its sovereign immunity.

8.2.5. Nothing in this Agreement shall be offered as evidence or otherwise used in any administrative, quasi-judicial or judicial proceeding involving the determination of any issues relating to the Treaty fishing right.

8.3. Contact information

WDFW

Director

Washington Department of Fish & Wildlife

600 Capitol Way N

Olympia, WA USA 98501-1091

Squaxin Island Tribe

Director

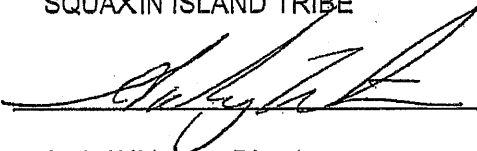
Squaxin Island Natural Resources Department

2952 S.E. Old Olympic Highway

Shelton, WA 98584

The Parties' respective representatives agree to the above terms and conditions.

SQUAXIN ISLAND TRIBE



Andy Whitener, Director
Squaxin Island Natural Resources

Date:

3/1/13

WASHINGTON DEPARTMENT OF FISH & WILDLIFE



Phil Anderson, Director
Washington Department of Fish & Wildlife

Date:

3/21/13