



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 21- 11 of the SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965;

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe;

**WHEREAS**, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government;

**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe;

**WHEREAS**, the Squaxin Island Tribal Council finds that the regulation of business activities on all lands within the jurisdiction of the Squaxin Island Tribe is essential to the health and welfare of the Squaxin Island Tribe and its members;

**WHEREAS**, in 2018 the Washington Legislature enacted Engrossed Substitute Senate Bill 6091, which included the Watershed Restoration Act ("Act"), RCW Ch. 90.94.

**WHEREAS**, the Act directs the Washington Department of Ecology ("Ecology") to implement a program to restore and enhance streamflows by developing and implementing plans ("Plans") that will result in the restoration and enhancement of streamflows to levels necessary to support robust, healthy, and sustainable salmon populations, and the Legislature appropriated funding to assist in this effort;

**WHEREAS**, the Act also purports to allow development that relies on permit-exempt wells to proceed even if it impacts instream flows, provided that the Plans actually restore and enhance instream flows;

**WHEREAS**, the Act's process requires either that a committee unanimously approve a Plan or, if that fails to occur, then a Plan developed by Ecology is reviewed by the Salmon Recovery Funding Board and ultimately adopted by Ecology;

**WHEREAS**, many of the creeks and rivers within the Tribe's usual and accustomed Treaty fishing area ("U&A") that support fish are currently below healthy instream flow levels at critical times of the year for

salmon, including below levels established by rule under State law;

**WHEREAS**, in order to protect the Tribe's sacred Treaty reserved rights to fish and water, the Tribe decided to invest time and effort in this process for WRIAs 12-15 and to occupy a seat on each of these committees;

**WHEREAS**, as the process unfolded, the Tribe repeatedly voiced concerns about Ecology's overly narrow interpretation of the Act particularly as to WRIAs 12-15, including about the amount of consumptive water use that the Plans are required to offset, Ecology's duty to engage in rulemaking to fix outdated and ineffective instream flow rules for WRIAs 12-15, the interrelationship between the Act and the Growth Management Act and Building and Subdivision Codes, as well as Ecology's view that the Act does not require Plan implementation;

**WHEREAS**, the Committee-drafted Plans are nearly complete and the process is now at a place whereby each entity on the Committee votes to approve or disapprove the Plans;

**WHEREAS**, the Council acknowledges and greatly appreciates the hard work that went into each of these Plans by Committee members and staff;

**WHEREAS**, the process resulted in specific elements of the WRIA 12 and 13 Plans that the Tribe fully supports, which outweigh these Plans' less desirable aspects;

**WHEREAS**, even if the Committee unanimously approves the WRIA 12 and 13 Plans, there is significant uncertainty going forward, including Ecology action or inaction with regard to rulemaking, local government efforts, funding and implementation of projects and actions in the Plans, and the accuracy of underlying Plan assumptions;

**WHEREAS**, the process did not result in WRIA 14 & 15 Plans that sufficiently protect the Tribe's interests to warrant Tribal support of these Plans for reasons that the Tribe has explained and will continue to explain as the process proceeds;

**WHEREAS**, as the process for the WRIA 14 and 15 Plans goes to the Salmon Recovery Funding Board, the Tribe will continue to advocate for Plans that it can ultimately support, which includes being accompanied by meaningful rule-making, and commitments by Mason County (including those made in the February 22, 2019 Memorandum of Agreement with the Tribe);

**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council hereby approves the Watershed Restoration and Enhancement Plans for WRIAs 12 and 13;

**NOW THEREFORE BE IT RESOLVED**, for reasons described herein as to the WRIA 12 and 13 Plans:

(A) the Tribe hereby reserves and expressly does not waive any rights including:

(1) To assert an interpretation of any state laws that differs from that presented in these Plans or elsewhere;

(2) To take any legal action against any party if new evidence indicates that assumptions underlying the Plan are erroneous to the detriment of instream flows and fisheries;

(3) To take any legal action to protect its interests against any party if, after a reasonable amount of time has passed, projects and actions identified in the Plan to offset impacts are not

implemented; and

(4) To bring any legal action against any party to seek any and all amendments of administrative rules or to oppose proposed amendments, including the WRIA 12 and 13 rules.

(B) Neither the WRIA 12 or 13 Plans, nor the Tribe's approval of them, nor the Tribe's participation in the planning process:

(1) Has any legal effect on its approval or disapproval of other watershed plans in the Act's process;

(2) Affects the existence, amount or enforceability of the Tribe's federally-reserved water rights, or its right to have them adjudicated; and/or

(3) Has any effect on the Tribe's right to take any legal action against any party to protect its interests.

In the event that the WRIA 12 and 13 Plans are not unanimously approved by the respective committees, the Tribe reserves all rights and does not waive any rights.

**NOW THEREFORE BE IT FURTHER RESOLVED**, the Council hereby disapproves the Watershed Restoration and Enhancement Plans for WRIs 14 and 15;

**NOW THEREFORE BE IT RESOLVED**, for reasons described herein as to the WRIA 14 and 15 Plans, the Tribe's continued participation in the above process does not:

(1) Have any legal effect on its approval or disapproval of other watershed plans in the RCW Ch. 90.94 process;

(2) Affect the existence, amount or enforceability of the Tribe's federally-reserved water rights, or its right to have them adjudicated;

(3) Have any effect on its right to take any legal action against any party to protect its interests; and/or


(4) Have any effect on its right to bring any legal action against any party to seek any and all amendments of administrative rules or to oppose proposed amendments.


#### CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 15 day of April 2021, at which time a quorum was present and was passed by a vote of 6 for and 0 against, with 0 abstentions.

  
[Kristopher K. Peters \(Apr 15, 2021 13:42 PDT\)](#)

**Kris Peters, Chairman**

  
Attested by: [Jeremie Walls \(Apr 15, 2021 13:48 PDT\)](#)  
**Jeremie Walls, Secretary**

  
[Charlene Krise \(Apr 15, 2021 17:21 PDT\)](#)

**Charlene Krise, Vice Chairman**





# 2021-04-15 Resolution re watershed plans

Final Audit Report

2021-04-16

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