



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 11- 55

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; and

**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; and

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

**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill its 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; and

**WHEREAS**, the Tribal Council has established the Squaxin Island Tribe's Treaty-reserved water rights as one of its most important priorities for protection and advocacy; and

**WHEREAS**, the Squaxin people have fished in Johns Creek and the waters of South Puget Sound since time immemorial. Article III of the Treaty of Medicine Creek provides that the "right of taking fish and usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory"; and

**WHEREAS**, the Treaty of Medicine Creek and federal case law has established the Squaxin Island Tribe's reserved water rights to water of sufficient quantity to support a permanent, economically viable homeland for the Squaxin people; and

**WHEREAS**, the Squaxin Island Tribe retained a federal Indian reserved water right to instream flows sufficient to support a sustainable, harvestable surplus of fish to exercise their Treaty fishing rights when the reservation of the right to take fish was made in the Treaty of Medicine Creek; and

**WHEREAS**, at this time, State- and Mason County-sanctioned water diversions in the Johns Creek Basin are impairing the fish species that make up the Tribe's Treaty fishery and the water resources needed to ensure a permanent, economically viable homeland for the Squaxin people; and

**WHEREAS**, excessive groundwater and surface water withdrawals have so reduced habitat in Johns Creek that Puget Sound coho is listed as a species of concern, Puget Sound steelhead is listed as threatened under the

federal Endangered Species Act, Johns Creek is designated as temperature-impaired on Washington's Clean Water Act § 303(d) list, and chum and cutthroat stocks have been dramatically reduced; and

**WHEREAS**, the Thurston County Superior Court in *Squaxin Island Tribe v. Gregoire and Mason County*, No. 10-01243-2, has held that the Department of Ecology acted arbitrarily and capriciously in denying the Tribe's petition for rule amendments that, if adopted, would have helped protect Johns Creek's flows and fisheries; and

**WHEREAS**, the United States has a trust responsibility to protect and restore tribal trust resources, including Treaty-protected fishing and water rights; and

**WHEREAS**, federal legal action brought by the United States, as a trustee for the Squaxin Island Tribe and its trust resources, is necessary at this time in order to ensure protection and restoration of the Tribe's Treaty rights; and

**NOW THEREFORE BE IT RESOLVED**, the Squaxin Island Tribe requests that the United States as trustee for the Tribe's Treaty-reserved water and fishing rights to commence litigation against the State of Washington and Mason County for purposes that include declaring the existence of the Squaxin Island Tribe's Treaty-reserved water rights in Johns Creek, quantifying such rights, and enjoining the issuance of or reliance upon State- and County-sanctioned water use that is now impairing or will impair these rights; and

**BE IT FURTHER RESOLVED**, that the Squaxin Island Tribe seeks funding from the United States, including from the Department of the Interior, that is needed to define the Tribe's water rights, to litigate and negotiate, and to promote the conservation, management and use of these Treaty-protected water resources, and directs its staff to take all actions necessary to secure such funding; and

**BE IT FURTHER RESOLVED**, that the Tribal Council authorizes and directs the Chairman to submit a formal request for such litigation and for federal funding as described herein.

#### 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 11 day of August, 2011, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.

  
\_\_\_\_\_  
David Lopeman, Chairman

Attested by:

  
\_\_\_\_\_  
Pete Kruger, Secretary

  
\_\_\_\_\_  
Arnold Cooper, Vice Chairman