



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 09-92

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 with protecting and managing the lands and treaty resources and rights of the Tribe including those expressed in Sections 1(b) and (i) of the Constitution; 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 Tribe desires to protect fish populations and habitat within its usual and accustomed fishing areas as reserved by the 1854 Treaty of Medicine Creek, which includes Johns Creek and its tributaries; and

**WHEREAS**, Johns Creek's flows and fishery resources are in a distressed and damaged condition because of, among other things, inadequate instream flows; and

**WHEREAS**, the Tribe by letter dated September 11, 2009, requested that the Mason County Public Health Department deny DB Industries' request for a satisfactory "water adequacy" finding for its proposed well, as part of a commercial building permit application, because DB Industries has not proved that its water withdrawal will not interfere with Johns Creek flows; and

**WHEREAS**, Mason County indicated that it is likely to deny the Tribe's request and instead issue a satisfactory water adequacy finding and a building permit to DB Industries; and

**WHEREAS**, the Tribe has been discussing the DB Industries case and other water-related issues with attorneys from EarthJustice, a law firm that specializes in cases that protect the environment; and

**WHEREAS**, EarthJustice desires to participate in the legal representation of the Tribe in the DB Industries case and/or other water rights-related legal actions;

**WHEREAS**, EarthJustice has stated that they would not charge the Tribe for attorney time, but that the Tribe would be responsible for any litigation costs; and

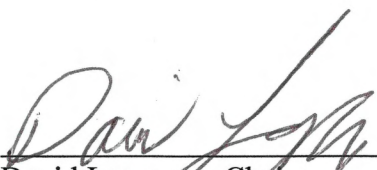
**WHEREAS**, the Tribe's Legal Department and EarthJustice have signed a "Common Interest" agreement, which protects against the release of many documents that the Tribe and EarthJustice share in anticipation of litigation; and

**NOW THEREFORE BE IT RESOLVED**, that the Tribe intends to appeal Mason County Health Department's finding of water adequacy for DB Industries; and

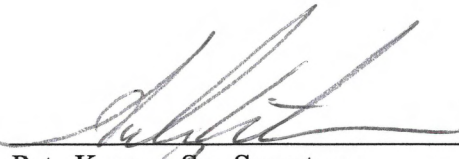
**BE IT FURTHER RESOLVED**, that the Tribe desires that EarthJustice serve as co-counsel or in a similar arrangement with the Tribe in any DB Industries' administrative and judicial appeals.

**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 22 day of October, 2009, 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

  
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Arnold Cooper, Vice Chairman

Attest:  FOR  
\_\_\_\_\_  
Pete Kruger, Sr., Secretary  
Squaxin Island Tribe