

JOINT REPRESENTATION AND COMMON-INTEREST AGREEMENT

with

AMERICAN FOREST RESOURCE COUNCIL and NORTHWEST RESOURCE LAW PLLC

For the purpose of asserting their mutual interests, the American Forest Resource Council (“AFRC”), the undersigned co-plaintiff (“Co-Plaintiff”), and all other Co-Plaintiffs who sign an identical duplicate of this Agreement (collectively, the “Parties”), hereby agree to the following terms and conditions for confidential communications pursuant to common interests and joint legal representation by Northwest Resource Law PLLC (“NRL”).

Common Interests of the Parties, Objectives and Scope of Representation

The Washington Department of Natural Resources (“DNR”) is developing a long-term conservation strategy for the marbled murrelet, as required by its 1997 State Lands Habitat Conservation Plan (“HCP”) with the United States Fish and Wildlife Service. Using the alternatives analyzed in its September 2018 Revised Draft Environmental Impact Statement DNR intends to apply for an amendment to its HCP and Incidental Take Permit for the marbled murrelet under the Endangered Species Act, using one of alternatives analyzed in its September 2018 Revised Draft Environmental Impact Statement on the Long-term Conservation Strategy for the Marbled Murrelet (“RDEIS”). It is anticipated that the vital interests of AFRC and Co-Plaintiffs are threatened by DNR’s long-term conservation strategy for reasons including but not limited to: (1) the RDEIS is inadequate because it lacks an adequate analysis of negatives impacts to public services of conservation alternatives that DNR is considering, including DNR’s preferred alternative, and (2) the preferred alternative, if selected, would breach DNR’s fiduciary duties to beneficiaries of timber harvests and injure purchasers of timber harvests from state trust lands because the alternatives exceed DNR’s obligations under the Endangered Species Act.

AFRC and Co-Plaintiffs are investigating whether to appeal, and may initiate litigation appcailing, DNR’s (and the Board of Natural Resources’) final decision on the long-term conservation strategy and the final environmental impact statement on the long-term conservation strategy. The parties are also investigating whether to appeal the Sustainable Harvest Calculation (“SHC”) to be adopted by the Board. For purposes of this Agreement, this investigation and any litigation challenging the long-term conservation strategy and/or shall be known as “the Litigation.” The parties presently anticipate filing an appeal in Superior Court following the Board’s adoption of a resolution adopting a long-term conservation strategy and/or SHC. The Parties may also participate in any litigation filed by other persons or entities in connection with the long-term conservation strategy.

NRL will represent the Parties in the Litigation, which may include appointment of one or more NRL attorneys as Special Counsel to one or more Co-Plaintiffs. Under this Agreement, NRL shall not be responsible for representing AFRC or the Co-Plaintiffs in matters that are

beyond the scope of the Litigation. NRL shall have no obligation to advise, and shall refrain from advising, AFRC and the Co-Plaintiffs with respect to their rights vis-à-vis one another.

Consent to be Named as a Party and Plaintiff with AFRC.

The undersigned Co-Plaintiff knowingly consents to being publicly named as a party and co-plaintiff with AFRC in the Litigation.

Management and Control of Litigation

In order to minimize the expense of the Litigation and to coordinate claims, the Parties wish to be represented in the appeal of the Litigation by a single law firm, NRL. NRL is willing to represent the Parties, individually and collectively, under the terms set forth in this Agreement.

The Co-Plaintiffs agree that AFRC shall make the final decisions on the direction and prosecution of the Litigation. All work by NRL on the Litigation must be authorized by AFRC and all written communications by NRL with the Co-Plaintiffs concerning the Litigation shall be conveyed through AFRC or AFRC shall be copied on such communications. NRL may provide only AFRC with copies of work product, pleadings, letters and other official communications that would normally be provided to a client in the course of legal representation, and AFRC will be responsible for distributing copies, as appropriate, to Co-Plaintiffs.

To promote communication and coordination among AFRC, Co-Plaintiffs, and NRL, an Advisory Group for the Litigation is hereby created, and it shall consist of one representative from each of the Co-Plaintiffs and one representative from AFRC who shall chair the Advisory Group. The designated Advisory Group representative for the undersigned Co-Plaintiff is:

Name: Commissioner Sharow Trask

Address: 411 N. 5th Street, Shelton, WA 98584

Phone: 360-427-9670 x751 Fax: _____

E-mail: Strask@Co.mason.WA.US

AFRC will utilize the Advisory Group to notify Co-Plaintiffs of material issues that arise in the Litigation, to collect information from Co-Plaintiffs, and to seek the advice and recommendations of the Co-Plaintiffs on major strategic issues such as claims asserted in the Litigation, settlement discussions, and review and comment on significant pleadings to be filed in the Litigation. For prompt and efficient communication, AFRC will use e-mail to the maximum extent possible for coordination with the Advisory Group. AFRC may also utilize the Advisory Group by convening a meeting or telephone conference of the Advisory Group with notice of the purpose, time, and location or telephone access for such a meeting or AFRC may elect to utilize the Advisory Group by distributing documents, questions, draft pleadings, and

other communications for review and comment. NRL will advise AFRC on material Litigation issues that should be presented to the Advisory Group and AFRC shall copy NRL on all communications with the Advisory Group.

Public Relations and Media Strategy

The Parties agree to use their best efforts to coordinate public relations measures to explain and justify their role in the Litigation in the mass media and any communications for the purposes of fund raising.

Cooperation

As long as they are jointly represented by NRL in the Litigation, AFRC and the Co-Plaintiffs agree to cooperate fully with each other in the prosecution of the Litigation and to use best efforts to supply correct information to NRL regarding matters that may have a material impact on the Litigation.

Common Interest Materials and Communications

The Parties may, at the sole option of each, share and exchange, whether orally or in writing, documents, factual materials, mental impressions, strategies, memoranda, interview reports, experts' reports, and other information related to the Litigation ("Common Interest Materials"), which may include the confidences of the Clients. The Parties agree and acknowledge that the exchange of Common Interest Materials furthers the Parties' common interests relating to the Litigation.

The Parties understand and agree that communications between the Parties and/or their counsel, employees, officers, directors, or agents will constitute Common Interest Materials for purposes of this Agreement.

The Parties understand and agree that Common Interest Materials are protected from disclosure to adverse or other parties as a result of the attorney-client privilege, the attorney work-product doctrine or other applicable privileges, immunities or confidentialities. The Parties further understand and agree that Common Interest Materials are exempt from disclosure and/or production under the Public Records Act, RCW Chapter 42.56, to the extent the foregoing privileges apply.

The Parties understand and agree that these exchanges will not diminish in any way the privileged and confidential nature of the Common Interest Materials. The Parties also understand and agree that any disclosure of Common Interest Materials between and among the Parties, their counsel, employees, or agents, will not constitute a waiver of any otherwise available privilege, immunity or claim of confidentiality.

The Parties will not disclose, without first obtaining the written consent of all Parties who may be entitled to claim any privilege, immunity or confidentiality regarding the material, any

Common Interest Materials to any other person except an attorney, employee or agent for one of the Parties, and only to the extent necessary to facilitate preparation for and participation in the Litigation. Provided, however, that nothing in this Agreement shall limit or affect in any manner the rights or discretion of a Party or its counsel to dispose of, disclose to others or otherwise use Common Interest Materials originating with that Party or its counsel, information contained in Common Interest Materials that is obtained outside the Parties' common interest defense relationship or information that does not constitute Common Interest Materials.

The Parties understand that all information supplied to, or obtained by, NRL in the course of the joint representation of them in the Litigation shall be available to each of the Parties to this Agreement, unless the information provided by one Party is subject to privilege and the Party providing the information specifically identifies it as not to be shared with the other Parties. NRL shall maintain the confidentiality of information provided by the Parties with respect to other third parties who are not subject to this Agreement. No confidential information may be disclosed beyond the Parties to this Agreement without the express consent of the Party who provided the confidential information. No Party to this Agreement is authorized to waive the privilege of another Party.

The confidentiality provisions of this Agreement shall remain in full force and effect notwithstanding any decision by a Party not to pursue the Litigation or the settlement or conclusion of such litigation.

Any expert, consultant, or attorney engaged by NRL or AFRC on behalf of the Parties for the Litigation is obligated to protect and maintain the confidences of the Parties and their communications in the same manner as the Parties are mutually obligated to do under this Agreement.

This Agreement memorializes prior oral understandings pursuant to which information such as, but not limited to, documents and mental impressions have been shared among the Parties and their representatives, with the understanding that such information is confidential and protected from disclosure. The Parties agree and mutually understand that all joint representation materials, information, and impressions previously exchanged between or among NRL, AFRC, and the Co-Plaintiffs and their authorized representatives are subject to the provisions of this Agreement.

Responsibility for Fees and Costs

NRL shall charge all time and disbursements incurred on behalf of the joint representation to a single account for the Litigation, the payment of which shall be the sole responsibility of AFRC. The undersigned Co-Plaintiffs will not be liable for payment on the Litigation account. Any Co-Plaintiff and any other party may contribute funds for the Litigation, but such a contribution does not entitle the contributor to control the Litigation. AFRC recognizes that financial contributions from Co-Plaintiffs that are units of local government must be applied to legal representation in the Litigation for the public purposes that are the basis of the contribution. AFRC understands that its ultimate control over direction and prosecution of the

Litigation is qualified by the need to ensure that any contribution of public funds will be used for public purposes agreed on by the contributor and AFRC. Any contributions will be held in trust by NRL and shall be applied first to costs, including expert witnesses, before application to attorneys' fees.

In the event that AFRC and other Parties are awarded attorneys' fees and costs in the Litigation, the amount recovered will be paid to AFRC and distributed among the contributing Parties in proportion to their contribution as a percentage of the total account for fees and costs paid in the Litigation. NRL will return any funds that are contributed by a Co-Plaintiff for the Litigation, but unexpended in connection with the Litigation.

Informed Waiver of Conflict of Interest

The Parties understand that currently the representation does not involve any actual conflict of interest. However, Co-Plaintiffs should be aware that NRL's representation in the future may give rise to conflicts of interest among the Parties and, should that occur, NRL will promptly apprise the Co-Plaintiffs of any such conflict.

The undersigned Co-Plaintiffs hereby consent to be represented in the Litigation by NRL, having full knowledge that conflicts of interest between and among AFRC, its members, and the Co-Plaintiffs could arise from simultaneous representation by NRL. If such conflicts arise, the undersigned Co-Plaintiffs agree that their sole remedy will be withdrawal from joint representation under the terms of this Agreement. The Parties agree they knowingly waive any attempt to disqualify NRL from undertaking a representation in the event a conflict later arises.

The Parties acknowledge that they are represented by counsel in undertaking this Agreement and that they have had the opportunity to obtain independent advice of counsel prior to entering into this Agreement.

Duration of Representation and Withdrawal

Any Party may withdraw from this Agreement with reasonable, written notice to NRL. The joint representation of the Parties by NRL shall continue until the Litigation is concluded or until AFRC withdraws from this Agreement. If any Party other than AFRC withdraws, NRL may continue to represent AFRC and the remaining Co-Plaintiffs if they so desire. If AFRC withdraws, NRL may continue to represent the remaining Co-Plaintiffs in the Litigation if the remaining Co-Plaintiffs so desire and thereafter agree to pay 100 percent of the account for joint representation and AFRC consents to such representation before the effective date of its withdrawal.

With the exception of AFRC, no Party that withdraws may seek to disqualify NRL from continued representation of any of the other Parties in the Litigation or in any other matter. In the event of a withdrawal, neither NRL nor the remaining Parties shall be liable to the withdrawing Party for any legal claims based on the joint representation.

Modifications

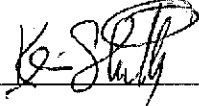
Modifications to this Agreement can only be made if such modifications are in writing and are signed by all of the Parties and NRL.

Counterparts

This Agreement may be executed in counterparts and with the express recognition that additional Co-Plaintiffs may join the joint representation under this Agreement before or after the date when the undersigned Co-Plaintiff joins without further review and agreement by the undersigned Co-Plaintiff.

Authority and Agreement

The undersigned is authorized to sign for the respective Co-Plaintiff and agrees to be bound by the terms of this Agreement:

American Forest Resource Council By: _____ Title _____ Date: _____	NRL, PC By: _____ Title _____ Date: _____
_____ Co-Plaintiff Mason County, Washington By: <u></u> Title <u>Chair, Board</u> Date: <u>Nov. 26, 2019</u>	Other Co-Plaintiffs Will Sign in Counterpart Identical Agreements.

