



16
JAN 07 2025

BOARD of CLALLAM COUNTY COMMISSIONERS

MINUTES for the week of December 30, 2024 – January 3, 2025

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, December 30, 2024. Present were Commissioners French, Ozias and Johnson and Administrator Mielke.

Items of discussion per the agenda published December 24 were:

- Calendar/Correspondence
- Briefing and request approval of a Resolution regarding duties of the Coroner's Office to be performed by District Court Judge David Neupert
- Resolution appointing Allyce Miller to the Marine Resources Committee
- Resolution appointing Caleb Anderson to the Homelessness Task Force
- Resolution appointing Glen Chipman to the Developmental Disabilities Advisory Committee
- Resolution to correct term date for Anna Plager on the Park and Recreation Advisory Board
- Contract extension with the City of Forks for District Court II court costs/fees and rental of space
- Letter to the Office of the Attorney General commenting on petition to amend the model Public Records Act rules
- Purchase order with CDWG for Nutanix Server Upgrade Project
- Assessor's Office request to approve a Resolution authorize a temporary change in customer service hours
- Agreement with Washington State University for drought related outreach
- Contract with Department of Health regarding the consolidated contract for Public Health Service
- Memorandum of understanding with North Olympic Salmon Coalition for replacing culvert infrastructure under a county owned public road Johnson Creek in the Hoko-Ozette area
- Agreement with Bruch & Bruch Construction to repair Eden Valley Road Slide
- Letter of support to National Oceanic Atmospheric Association for Lower Elwha Klallam Tribe and North Olympic Salmon Coalition's Hoko Watershed Restoration Proposal
- Agreement with Hurricane Ridge Winter Sports Education Foundation for 2025 Hotel / Motel Tax Fund/\$90,000
- Agreement with Public Works for 2025 Hotel / Motel Tax Fund/\$100,000
- Agreement with Field Arts and Events Hall for 2025 Hotel / Motel Tax Fund/\$200,000
- Agreement with Olympic Peninsula Visitor Bureau for 2025 Hotel / Motel Tax Fund/\$1,000,000
- Agreement with Karen Unger for Superior Court conflict attorney cases
- Agreement with Lane Wolfley for Superior Court conflict attorney cases
- Agreement with William Payne for Superior Court conflict attorney cases
- Agreement with Clallam Public Defender for indigent public defense services
- Memorandum of understanding with Juvenile Services for American Rescue Plan Act Funds ARPA
- Memorandum of understanding with Prosecutor's Office for American Rescue Plan Act Funds ARPA
- Memorandum of understanding with Sheriff's Office for American Rescue Plan Act Funds ARPA
- Memorandum of understanding with Coroner's Office for American Rescue Plan Act Funds ARPA
- Memorandum of understanding with Health and Human Services for American Rescue Plan Act Funds ARPA

Meeting concluded at 10:53 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Chair French called the meeting to order at 10 a.m., Tuesday, December 31, 2024. Also present were Commissioners Ozias and Johnson and Administrator Mielke.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

Request to move item 4a after the Consent Agenda

ACTION TAKEN: CRJm to adopt the agenda as modified, CMOs, mc

PUBLIC COMMENT

- John Worthington, Sequim, commented on item 2L

Oath of office - Commissioner Johnson administered by Judge Basden.

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, commented on his rights to make public comment
- Karin Cummins, Sequim, commented on item 1a
- Jeff Tozzer, Sequim, commented on item 1a, Towne Road

CONSENT AGENDA

- 1a Approval of vouchers for the weeks of December 16 and 23

The Following warrants and electronic payments are approved for payment:

Week of 12/16-12/20

Accounts Payable:	Total
Warrant numbers: 9933211-9933216; 9933270-9933276; 9933279-9933315; 9933317-9933341; 9933379-9933391; 9933400-9933530	\$1,291,065.75
Electronic payments dates: n/a	\$0.00
Total Accounts Payable:	\$1,291,065.75

The Following warrants and electronic payments are approved for payment:

Week of 12/23-12/27

Accounts Payable:	Total
Warrant numbers: 9933629-9933783; 9933786-9933794; 9933805-9933866	\$1,178,808.13
Electronic payments dates: n/a	\$0.00
Total Accounts Payable:	\$1,178,808.13

- 1b Approval of special payroll for the period ending December 15

- 1c Approval of payroll for the period ending December 15

The following voucher/warrants/electronic payments are approved for payment:

Payroll	Total
Warrant Numbers	
173179-173489, 9933576-9933577	\$915,712.42
Electronic Payment Dates	
12/16/2024-12/26/2024	\$465,951.16
Total Payroll:	\$1,381,663.58

- 1d Approval of minutes for the week of December 16

- 1e Resolution reappointing Shahida Shahrir to the Clallam County Board of Health

- 1f Resolution certifying County capitalized asset inventory as of December 31, 2023

ACTION TAKEN: CRJm to adopt the consent agenda, CMOs, mc

PUBLIC WORKS

- 4a Update on a Resolution declaring an emergency to the Eden Valley Road Slide (Road #26500)

ACTION TAKEN: CRJm to approve, CMOs, mc

REPORTS AND PRESENTATIONS

- CMO commented on Habitat for Humanity Ground Breaking Ceremony
- CRJ commented on encumbered lands counties, endangered species

CONTRACTS AND AGREEMENTS

2a Agreement with Department of Commerce through Office of Crime Victims Advocacy
Community Services Division for STOP Violence Against Women Formula Grant Program

ACTION TAKEN: CRJm to approve, CMOs, mc

2b Agreement with Norpoint Protective Services for security services

ACTION TAKEN: CRJm to approve, CMOs, mc

2c Agreement with Washington State Military Department and U.S. Department of Homeland
Security for Emergency Management Preparedness Grant

ACTION TAKEN: CRJm to approve, CMOs, mc

2d Agreement with Washington State Military Department and U.S. Department of Homeland
Security for State Homeland Security Program Grant

ACTION TAKEN: CRJm to approve, CMOs, mc

2e Agreement with Jefferson County for behavioral health services

ACTION TAKEN: CRJm to approve, CMOs, mc

2f Agreement with Peninsula Dispute Resolution Center for We're in this Together seminars

ACTION TAKEN: CRJm to approve, CMOs, mc

2g Agreement with Port Angeles School District for behavioral health services for 2024-2025 school
year

ACTION TAKEN: CRJm to approve, CMOs, mc

HEARING(S)

6a Resolution authorizing grants from the Opportunity Fund

- Colleen McAleer, Economic Development Council, provided an update
- BOCC held discussion

ACTION TAKEN: CRJm to open the public hearing, CMOs, mc

- The following provided testimony:
 - Jeff Tozzer, Sequim (see attached)
 - Danny Steiger, Port Angeles
 - Scott Curtin, Port Angeles
 - Karin Cummins, Sequim
 - Ed Bowen, Clallam Bay
 - John Worthington, Sequim
 - Eric Fehrmann, Sequim

ACTION TAKEN: CRJm to close the public hearing, CMOs, mc

- Dee Boughton, Prosecuting Attorney's Office, commented on the Habitat for Humanity application
- BOCC held discussion

**ACTION TAKEN: CRJm to recommend approval of all projects that must meet all legal
requirements to proceed, CMOs, mc**

2h Agreement with Karen Unger for Superior Court conflict attorney cases

ACTION TAKEN: CRJm to approve, CMOs, mc

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2i Agreement with Lane Wolfley for Superior Court conflict attorney cases

ACTION TAKEN: CRJm to approve, CMOs, mc

2j Agreement with William Payne for Superior Court conflict attorney cases

ACTION TAKEN: CRJm to approve, CMOs, mc

2k Contract extension with the City of Forks for District Court II court costs/fees and rental of space

ACTION TAKEN: CRJm to approve, CMOs, mc

2l Agreement with Jamestown S’Klallam Tribe for annual population surveys of Olympia oysters

ACTION TAKEN: CRJm to approve, CMOs, mc

2m Agreement amendment 1 with Facet NW, Inc. to correct termination date

ACTION TAKEN: CRJm to approve, CMOs, mc

2n Agreement amendment 1 with Center of Inclusive Entrepreneurship for changes in the Community Development Block Grant

ACTION TAKEN: CRJm to approve, CMOs, mc

2o Memorandum of understanding with Clallam County Information Technology for American Rescue Plan Act Funds ARPA

ACTION TAKEN: CRJm to approve, CMOs, mc

2p Agreement with Bruch & Bruch Construction to repair Eden Valley Road Slide

ACTION TAKEN: CRJm to approve, CMOs, mc

2q Agreement with Clallam Public Defender for indigent public defense services

ACTION TAKEN: CRJm to approve, CMOs, mc

2r Memorandum of understanding with Juvenile Services for American Rescue Plan Act Funds
Q ARPA

ACTION TAKEN: CRJm to approve, CMOs, mc

2s Memorandum of understanding with Prosecutor’s Office for American Rescue Plan Act Funds
ARPA

ACTION TAKEN: CRJm to approve, CMOs, mc

2t Memorandum of understanding with Sheriff’s Office for American Rescue Plan Act Funds ARPA

ACTION TAKEN: CRJm to approve, CMOs, mc

2u Memorandum of understanding with Coroner’s Office for American Rescue Plan Act Funds ARPA
ACTION TAKEN: CMFm to approve and authorize the purchase of a gurney up to \$10,000, CRJs, mc

ACTION TAKEN: CRJm to approve the memorandum of understanding for American Rescue Plan Act Funds ARPA, CMOs, mc

2v Memorandum of understanding with Health and Human Services for American Rescue Plan Act Funds ARPA

ACTION TAKEN: CRJm to approve, CMOs, mc

ADMINISTRATION

- 3a Request for a Resolution establishing a position in support of proposition 1 Sequim School District 323 replacement educational programs and operation levy and a Resolution establishing a position in support of proposition 2 Sequim School District 323 bond to replace & upgrade deteriorating schools & improve safety

Public testimony:

- Ed Bowen, Clallam Bay
- Karin Cummins, Sequim
- Jeff Tozzer, Sequim
- John Worthington, Sequim
- Eric Fehrmann, Sequim
- Denise Lapio, Sequim

ACTION TAKEN: CRJm to adopt a Resolution for proposition 1, CMOs, mc

ACTION TAKEN: CRJm to adopt a Resolution for proposition 2, CMOs, mc

- 3b Purchase order with CDWG for Nutanix server upgrade

ACTION TAKEN: CRJm to approve, CMOs, mc

- 3c Resolution authorize a temporary change in customer service hours

ACTION TAKEN: CRJm to adopt, CMOs, mc

- 3d Resolution regarding duties of the Coroner's Office to be performed by District Court Judge David Neupert

ACTION TAKEN: CRJm to adopt, CMOs, mc

- 3e Memorandum of understanding with Honorable David Neupert for duties of the Coroner's Office

ACTION TAKEN: CRJm to approve, CMOs, mc

BUDGET

- 5a Resolution for consideration to adopt the following Budget Revisions:

NonDept-American Rescue Plan Act – The budget is being revised to utilize unspent budget in the Wireless Network capital project to fund the unbudgeted portion of the gurney for the Coroner vehicle/\$4,200

ACTION TAKEN: CRJm to approve the Budget Revision for \$4,200, CMOs, mc

ACTION TAKEN: CRJm to waive Policy 570, Section 4.4 transaction limits for this purchase, which prohibits a cardholder from splitting a transaction, CMOs, mc

ACTION TAKEN: CRJm to direct staff to issue an expedited warrant for the payment owed to the credit card for this purchase, CMOs, mc

PUBLIC COMMENT

- John Worthington, Sequim, commented on Tribe running business, Tribes
- Eric Fehrmann, Sequim, commented that he just started a company, Jamestown Excavating, equity, Sequim School propositions
- Ed Bowen, Clallam Bay, commented on Opportunity Fund, Wild Olympics, Coroner, Charter Review Commission, Public Records comment, Hoko-Ozette letter
- Karin Cummins, Sequim, commented on Ed Bowen, CNN, free speech, Department of Community Development
- Jeff Tozzer, Sequim, commented on John Worthington, Cascadia, tax, oath
- Denise Lapio, Sequim, commented on 3 Crabs flooding, discussion after the meeting
- Maureen McElravy, Sekiu, commented on Board of Commissioners, Towne Road

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The Board of Commissioners attended a WSAC virtual update during the week of December 30, 2024

Meeting concluded at 12:39 p.m. and continued to 9 a.m., Monday, January 6, 2025

PASSED AND ADOPTED this 7th day of January, 2025.

ATTEST:


Loni Gores, MMC, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS


Mike French, Chair

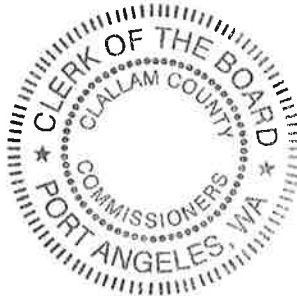

Randy Johnson


Mark Ozias

KEY TO ABBREVIATIONS:

ATM Administrator Todd Mielke
CMO Commissioner Mark Ozias
CRJ Commissioner Randy Johnson
CMF Commissioner Mike French

m moved
mc motion carried
s seconded



BOARD OF CLALLAM COUNTY COMMISSIONERS PUBLIC HEARING

Resolution authorizing grants from the Opportunity Fund

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate. Please print name and address clearly.

Nº	PRINTED NAME	SIGNATURE	ADDRESS
1	Jeff Turner	Jim Doyle	1052 JAMESTOWN RD. SEER
2	Danny Steiger	[Signature]	1204 E 5th St.
3			
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Public Hearing 69
Jeff Tozzer
12/31/24

Community leaders who oversee how Opportunity Funds are awarded should be thanked for their hard work in vetting applicants.

However, the intentions of one recipient are concerning. Habitat for Humanity of Clallam County has indicated that a contract has been awarded to the Jamestown Tribe without allowing a formal bid process. The contract is estimated to be \$2.6 million. It should be noted that earlier this year, the Jamestown Tribe donated \$50,000 to Habitat for Humanity. That's over a 5,000% return on investment.

Habitat CEO Colleen Robinson wrote in an email that, "We have an emergent availability of labor and resources from JKT."

Robinson also wrote, "At this time the Lyon's Landing project is not using State or Federal funding so as a nonprofit we are not required to do a formal bid process."

The competitive bidding process promotes efficiency and ensures taxpayers receive the best price for their investment.

The Jamestown Tribe has an estimated 15% to 25% advantage over their competitors:

- The Tribe does not pay license and tonnage fees (those can be over \$4,000 per vehicle per year).
- They do not pay personal property tax.
- They do not pay B&O tax.
- They do not pay property tax for many of their parcels.
- They are not subject to county inspections, building permits, and other county regulations.
- They do not have to pay for overweight or over-width vehicle permits.
- They do not have to pay sales tax when purchasing vehicles and equipment.

The Jamestown Tribe's competitors are the small businesses that drive economic growth in our financially distressed County. They pay taxes that support essential services in our communities. Small businesses pay the taxes that support the Opportunity Fund. They also fund the local government, which allows our commissioners to draw paychecks.

Awarding this grant to Habitat for Humanity and the Jamestown Tribe will be another example of funneling taxpayer dollars to Commissioner Mark Ozias' top campaign donor. It will also send a message to the community that County leadership has turned its back on the small businesses driving this economy.

Please consider requiring Habitat for Humanity to solicit bids from other small businesses before proceeding with the Carlsborg development.

Jeff Tozzer, Jamestown Road, Sequim

BOCC Mail Correspondences Received from other Jurisdictions

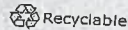
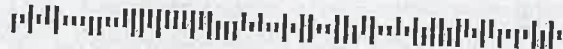
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SW Capital Program
Washington State Parks and Recreation Co
1111 Israel Road SW
PO Box 42650
Olympia, WA 98504-2650

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE PAID
C2M LLC
22202

6*****AUTO**ALL FOR AADC 983

CLALLAM COUNTY
223 E 4th St
Port Angeles, WA 98362



RECEIVED
CLALLAM CO. COMMISSIONERS

DEC 10 2024

1...2...3...A...

FROM: Hannah JB Ross, Environmental Planner

SUBJECT: Notice of State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) for the
Statewide Mooring Buoy and Anchor Maintenance Project

Washington State Parks and Recreation Commission (Washington State Parks) issued a determination of nonsignificance (DNS) on December 4, 2024 under the State Environmental Policy Act Rules (Chapter 197-11 WAC) for the following project: Statewide Mooring Buoy and Anchor Maintenance Project, proposed by Washington State Parks. After review of a completed environmental checklist and other information on file with the agency, Washington State Parks has determined this proposal will not have probable significant adverse impact on the environment.

A copy of the checklist and DNS are available for downloading on Washington State Park's website at
www.parks.wa.gov/SEPA

Please comment on this DNS by submitting written comments no later than **December 18, 2024**, to the address below:

Washington State Parks and Recreation Commission
Attention: Hannah Ross, Environmental Planner
PO Box 42650, Olympia, WA 98504-2650
Phone: 360-790-8842 FAX: (360) 664-0312
Email: SEPA@parks.wa.gov

FIELD ARTS & EVENTS HALL

December 2024

RECEIVED
CLALLAM CO. COMMISSIONERS

DEC 10 2024

Dear friends,

Your unwavering support has made this year at Field Hall truly remarkable. 1...2...3...A... Together, we've shared creativity, connection, and inspiration, day after day, night after night. **Your continued support is vital** to keep this momentum going.

80,000 VISITORS

ATTENDING THEATER, GALLERY,
SUNSET LOUNGE, CAFÉ &
CONFERENCE CENTER EVENTS



1,000+ STUDENTS

SERVED BY FREE IN-CLASS ARTS
EDUCATION OR PENCOL MEDIA LAB



\$6.5M IMPACT

THROUGH TICKET SALES, VISITOR
SPENDING & JOB CREATION



Field Hall isn't just a venue; it's a catalyst for transformation. Your support helps students discover their potential, families bond, communities come together, and artists realize their dreams. Your year-end gift will keep this powerful force thriving and fulfill the promise of a more vibrant Peninsula.

With gratitude,

STEVE R-G

Steven Raider-Ginsburg

Executive & Artistic Director

201 W FRONT STREET | FIELDHALLEVENTS.ORG | (360) 477-4679

MISSION STATEMENT

*We connect the future,
through the present,
with the past.*

2025 NOHC Meeting Dates

NOHC Board Meetings: Second Monday of the month at noon on Zoom and in the ASF conference room.

Membership Committee: Second Monday of the month at 2 PM on Zoom and in the ASF conference room.

Collections Committee: Last Tuesday of the month at 11 AM in the Research Library.



Online Collections Catalog

www.nohc.catalogaccess.com
New items added each month!

More on our website
www.northolympichistory.org

Research Library

933 West 9th Street, Port Angeles
360-452-2662

Open - Tuesdays & Thursdays
9 am - 2 pm or by appointment

**Remember to "Like Us" on
our facebook page**

www.facebook.com/northolympichistorycenter

Laurie Davies to Retire from NOHC Board

For twelve years, Laurie Davies dedicated her time and passion for local history to the Center as a Board Director, volunteer and advocate. She single-handedly managed our Hands on History for the last two years and kept the program active through the pandemic, by no means an easy task. She helped organize a Halloween event for local youth in our Lincoln Heights neighborhood, recruiting sponsors from local businesses and making sure the event was enjoyed by all. She served as our liaison with the Clallam County Fair, making sure we had a great location and everyone was taken care of. At the Center, Laurie was never afraid to get hands-on and dive into tasks like reorganizing our extensive collection of historic newspapers. But most importantly, her smile and approachability made a positive impact on every person at the Center. My interview for the NOHC Executive Director position was in Laurie's living room, and her kindness and compassion made me instantly feel "at home" in the organization. Laurie's commitment to public service and her community went well beyond just the NOHC – she served nearly 20 years on the Clallam County Fair Board before being appointed to the Washington State Fairs Commission. She is involved with our local 4-H chapter and can be seen at various summer events with candidates for Clallam County Fair Royalty in tow. We will miss Laurie's presence greatly from each and every person at NOHC, thank you Laurie for your years of service to the Center.



Laurie at work in NOHC's archive facility.

New Board of Director Members



Becky Schurmman (L)

Becky has spent the last 40 years working in museums as a carpenter, preparator, mount maker, exhibit designer and installer, and collection manager, retiring from the Jefferson County Historical Society in 2021. She managed the move of JCHS collections seven times and curated and installed over 75 exhibits in the 17 years she worked for that institution. She has been pleased to be able to work with the collections at NOHC as a volunteer, continuing work that has always challenged, intrigued and educated her.

Eve Datisman (R)

Eve spent forty years teaching high school and college students in Southeastern Idaho, Western Montana, and in Forks and Port Angeles, WA, where she spent the bulk of her career. Her areas of expertise were English, speech, humanities, writing, and library/information sciences. While not a native Washingtonian, she has an interest in the history of the area. Eve has been a regular volunteer at NOHC for 10 years, working on cataloging books and artifacts in the collection. Currently she is digitizing NOHC materials for the Washington State Library's National Newspaper Digitization Project.

RECEIVED
CLALLAM CO. COMMISSIONERS
DEC 11 2024

1...2...3...A...

From the President

NOHC Members,

A bit of nostalgia as I write my last letter to you as the NOHC Board President. A new slate of officers will be nominated at our November Board meeting, our vote will be in December, and they take the reins in January. I will be closing out three years as President but will remain active on the Board. Thank you all for the honor of serving.

My tenure roughly coincided with the addition of David Brownell as the Executive Director. What a thrill it has been to support his whirlwind of activity and improvements. Our presence in the region has boomed with new and rejuvenated programs. Connections and involvement with area government and other philanthropic organizations have blossomed with renewed cooperative interactions and events. Membership has actually improved during a time when many organizations have struggled to keep up their rolls. Meanwhile our volunteer crew and hours recorded have set new records. Much is attributable to David's efforts.

With that background, you can understand my angst when a friend told me yesterday that someone "had expressed a desire to join the History Center, but had heard that we were 'going out of business.'" Whoa! A fresh challenge for us all. Please speak out! Let your friends know that we are not all merely "holding on," but aggressively moving forward.

A likely source of such negative mental images is our long term struggle to definitively deal with the Lincoln School Building. This 100 year old, unreinforced brick building is economically unrefurbishable in my studied opinion. If I had the estimated \$12 million required to rejuvenate and repurpose the building, I could be more positive in saving this landmark. At present, it is the target of vandalism and likely to tumble in the case of even a mild seismic event. It has become a significant drag on our personnel and financial resources. In the end, please be assured that I and the rest of the Board feel a primary responsibility to the membership and will do our best to act in YOUR best interest. I am quite sure that David or any of the Board would be receptive to your questions on this issue. Please do not stew with any concerns. It is your right, privilege, and responsibility to raise any concerns you may have. Hasta luego!

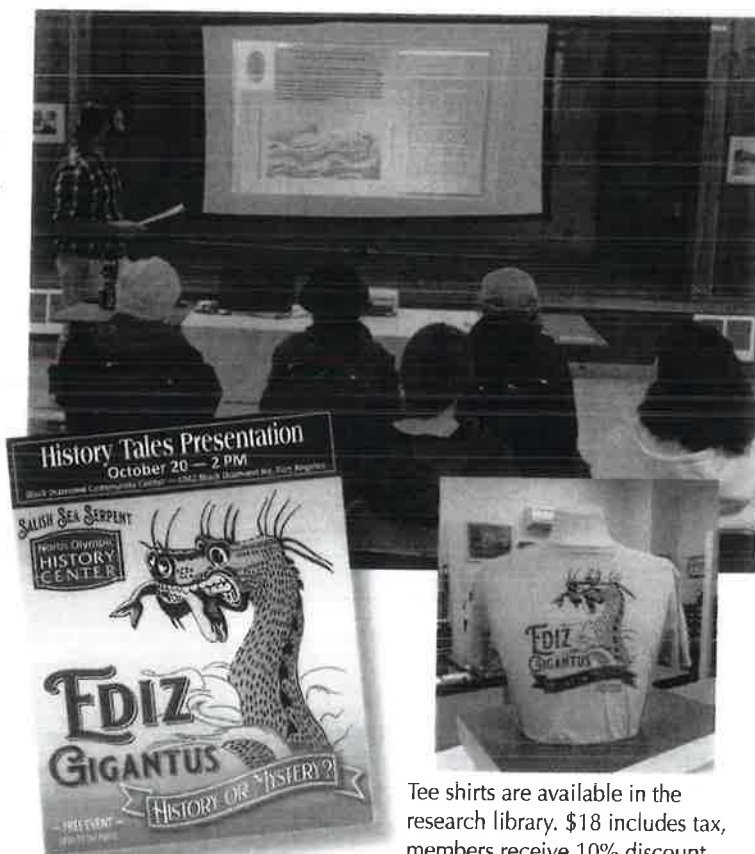
W. Brownell

Ediz Gigantus History or Mystery?

Our local sea serpent Ediz Gigantus aka "Eddie" has been making waves around town – Eddie has been the focus of presentations at the NOAA West End Maritime Symposium and our final History Tales presentation of 2024 at the Black Diamond Community Center. For over a century sailors, fishermen, and keen-eyed citizens have documented their encounters with mysterious sea creatures swimming in the Strait. While many of the accounts share familiar aspects with each other than indicate some sort of a "sea-serpent" like animal, some accounts contain distinctly non-serpent features (like a barrel shaped body), and others veer into the realm of the incredible with "mothership whales" releasing "flying fish scouts" to chase salmon towards a sea serpent that then swims into the whale via a "ramp-like tongue."

Despite the comical nature of some of the accounts (likely embellished for the 'Ananias' story-telling competition at the annual Salmon Derby), other accounts document sightings by multiple witnesses. Some of these witnesses captured these events in paintings now curated by the NOHC, including one by Dorothy Rudder showing "Aggie," named after Agate Bay where her family spotted the serpent around 1934. Some accounts seem to match a general description of an oar fish, a deep-water fish that can grow over 20 feet in length, but others are not as simple to understand.

Whether Eddie is history or mystery – why not both?! Fans of Eddie can purchase our new NOHC-designed tee shirts, just in time for the holiday season. Shirts come in Small, Medium, Large and Extra Large sizes and cost \$18 each, plus tax. All proceeds support the NOHC!



Tee shirts are available in the research library. \$18 includes tax, members receive 10% discount.

Christmas Past in Port Angeles



Blackmailer's Christmas Booty

Once again an "odd" photo from our archives got my attention and left me wanting to know more about the story it was telling. The photo shows Port Angeles Volunteer Firemen holding a variety of dolls with even more displayed in front of the group. So what is the story behind this photo? It involves Beacon Bill and the Christmas Lighthouse beginning in the early 1920s in downtown Port Angeles. This was the idea of William D. "Billy" Welsh. Welsh came to Port Angeles in 1913 to work as a printer. In December of 1922 Welsh began his annual "Blackmail" fundraising campaign to help the the poor and feed families through the Salvation Army Christmas Dinner fund. Soon Beacon Bill had many community groups joining in including the Volunteer Firemen. Welsh's involvement continued into the early 1950s even after he had moved to California. The story, first published in the winter of 1986 Strait History newsletter, is a wonderful tale filled with the Christmas spirit of giving. If you are interested in knowing more about this and many others, they are available in our research library.

Memories Shared of Christmas Parade

This photo from our archives has been published several times in the past, most recently in the *Peninsula Daily News* December 6th 2015 "Back When" section written by Alice Alexander. The photo dates from around 1947 or 1948 showing wonderful community involvement during the holiday season. In this photo Tim Timberlake plays Santa Claus sitting on a fire truck used as his sleigh. Timberlake was just one of several men to play Santa in Port Angeles going back as far back as 1900, when Mr. Herron of Herron's Variety Store played the part. Dick Hubbard began playing Santa in the early 1950s followed by his son John in 1966. The newspaper article that accompanied this photo is filled with great detail of Dick Hubbard's quest to buy the perfect Santa Claus outfit including that the beard and wig were made of Yak hair.



History Tales Presentation - Elwha Dam



Executive Director, David Brownell, being introduced by Stacey Rekkedah, Gallery and Programs Director, Port Angeles Art Center.



The program was well attended. Artwork from the Art Centers "Beauty and Resilience" exhibit can be seen on the walls and hanging from the ceiling.

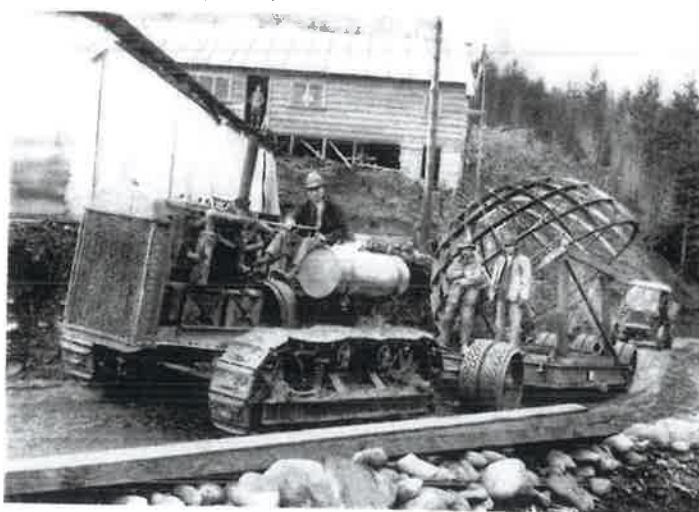
110 years ago, work began on one of the largest (and most controversial) projects in North Olympic Peninsula history – the construction of the Elwha Dam. This project, and the resulting impacts, continues to drive debate and discussion both on the Peninsula and around the nation as dam removal projects become increasingly common. This fall NOHC collaborated with the Port Angeles Fine Arts Center to display some of our dam artifacts as part of the PAFAC's "Beauty and Resilience – From Dismantling to Ecosystem Recovery" exhibit recognizing the 10-year anniversary of the removal of the dams.

The Elwha Dam, and the Glines Canyon Dam that was constructed a decade later, resulted in disastrous impacts on the Elwha River ecosystem and the anadromous fish species that inhabit the river. Over 40 years of effort beginning in the late 1960s resulted in the delicensing and eventual removal of the dams in 2014. Though the Elwha River has begun to recover, the impacts of 100 years of damming will take decades to completely disappear.

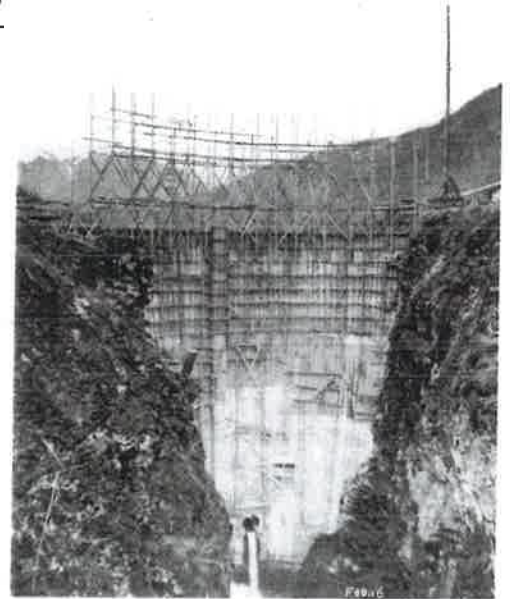
The story of the removal of the dams has gained increasing attention, as efforts around the United States to remove dams has gained traction – in fact, photos and research around the dams and their removal are one of the NOHC's common research requests. The NOHC curates artifacts, photos, maps, diagrams, and many more materials documenting the construction, operation, and removal of the dams.

To this end, the focus of our September History Tales presentation focused not on the removal of the dams, or their construction, but rather the value of historic preservation of these stories and objects as critical tools to understanding the history of the North Olympic Peninsula.

While there is no doubt that the dam's caused a great deal of environmental harm, especially regarding impacts on salmonid species and the fisheries of the Lower Elwha Klallam



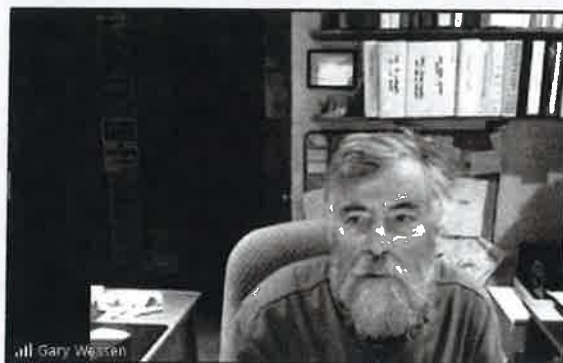
In addition to the artifacts from the Elwha and Glines Canyon Dams on display at PAFAC, our presentation featured several recently donated photographs from the Orville Campbell Collection. Mr. Campbell was a longtime employee of Crown Zellerbach Corporation, where he worked with the state and federal representatives on the Elwha Act and continued to work in the '90s that ultimately led to the removal of the Elwha River dams. Following retirement in about 1994, Campbell served on the Port Angeles Planning Commission, Port Angeles City Council and was deputy mayor from 2002-2003. Over 100 photos documenting the construction and operation of the dams can be found on our catalog access site under the accession number 2024.6.



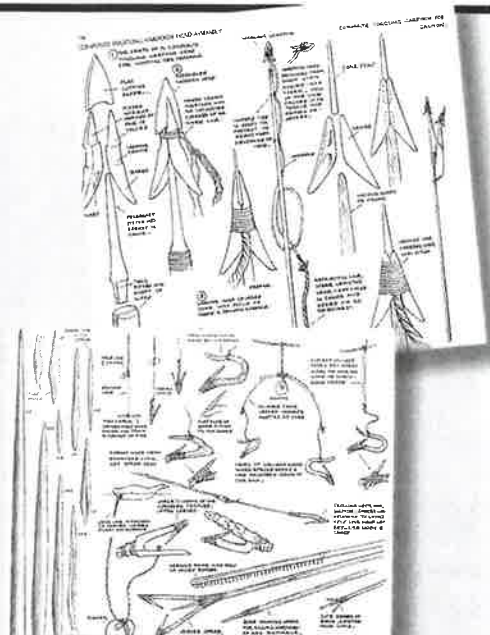
Photos from the Orville Campbell Collection. (Left) Construction of the Elwha Dam. (Above) Glines Canyon Dam.

Archaeology Month at the Center

Did you know October is archaeology month? October's programs followed that theme with a Learning Our Landscape presentation on the archaeology of the Sequim prairie, an archaeology chat with Todd Ortloff on KONP radio, and a free online course: An Introduction to the Archaeology of the Northwest Coast from the perspective of Western Washington with Gary Wessen, PhD. Local archaeologist Gary Wessen kindly donated his time and expertise by teaching 8 online classes covering the archaeological history of western Washington and the Olympic Peninsula beginning at the time of the last ice age and working our way up to the present. The class was well-attended by NOHC members and local history enthusiasts, and we all learned something (or many things) new regarding the fascinating history of the place we call home. A huge thanks to Gary for his generosity! The course was recorded and we hope to have the videos up online soon for all to enjoy.



Gary Wessen sharing his thoughts on zoom.



New Collection Addition - James Miller, Artist

This American Folk Art painting, titled "Pay As You Go", was donated to our collection this past October. It came with the following story:

James Miller, the artist, was discovered in the mid-1960s by a woman in downtown Tacoma who owned an art supply store in a remodeled train station.

Miller sought refuge in her store on a cold winter morning (as the story goes). She set him up in a backroom where he began working on a painting that turned out to be a well-done example of "American Primitive" style, whose best-known artist in American folk art Grandma Moses (1860-1961).

The details of Miller's life are not well known. He was born in Port Angeles, WA to parents who couldn't or wouldn't care for him. A local physician, Dr. Kintner, occasionally gave him care and said "He has been in so many foster placements over the years, maybe 30, I wonder how he survives."

He was essentially homeless, an unsupervised street kid. He was usually quite dirty and would often be seen walking along Highway 101, west of town, collecting bottles to turn in for cash.

He was a member of the Port Angeles High School Class of 1963. As was often done then, he was passed from year to year, without a serious academic plan. He was not listed among the 262 student graduates in the program commencement ceremony on June 5, 1963.

Still, everyone in the class knew James, or Jimmy as he was called. Many would stop him and help him with his clothes, especially tie his shoes. Coaches who had him in PE classes sometimes would ask us to take Jimmy into the shower and clean him up.



He was a happy kid despite his circumstances, always cheerful and friendly. He would write stories about WWII along with drawings of airplanes and other war machines like tanks and ships.

No one knew about his artistic talent, so when he was discovered, it came as a complete surprise. It was as if Rain Man had been in the class.

This painting was purchased in the Tacoma area by a classmate, Nadine Taper Kelly, from a private party several years ago for \$500.

His work has been displayed in major exhibitions of folk art in this country and in Europe, sometimes commanding much higher prices.

James, 1962 high school photo.



It also helped pay for his care in some kind of supervised group home near Tacoma. He died perhaps 20 years ago or more.

Perhaps there are others who can fill in some of his story when they see this painting, giving him the attention his talent deserves.

Folk art is art that has been created by self-trained artists. This art is usually made out of found materials and has subjects that are significant regionally or to the artist.

Locomotive Restoration Progress:

ings so that we can properly reproduce even the original windows and doors! Also, the "smokebox" on the front of the #4's boiler is welded closed, but Brian was able to provide photos inside the smokebox of #2, which will be very helpful to potential bidders. I found the document very interesting, and it gives us a clear path forward. If you're interested in reading the document, I'll share a link to it at the end of this document -- so look for it below. With this document in hand, we are beginning the process to put the work out to bid. The paperwork to get the specifications turned into a "bid package" will take some time, but at last week's team meeting, we approved starting the process. We hope to have bids awarded by the end of the year, though we will not start work until we're gotten past the worst of this winter's rainy weather.

We committed at the very start of the project to not stop until there was a cover built over the locomotive to help keep her looking good for a long time. We have progress to report here, too! A local donor has made an offer to largely fund the shelter's construction, so last week's meeting included approval to move forward with final design work, cost determination, and permitting for the shelter. We're not totally sure

how long the planning and permitting process will take, but we have a target of having the shelter done by spring when the restoration work will kick off. When we have the design and costs locked in, we'll share more info on this step (and the donor).

Funds raised from donations and grants have just crossed the \$40,000 mark, and are making steady progress toward the goal. We're far enough along to be able to start some of the much-anticipated work that is the meat of our project. We continue to seek appropriate grants to help, and on the home front, we're still selling t-shirts, hats, and the Rayonier Locomotive Video production. Rayonier continues to provide retired computers to us, which we recondition and sell on eBay. The list of donors on the website is growing ever longer, and while over half of our team members (donors) are local to Port Angeles, we have many members from around the world, including one of our newest team members, who hails from all the way in Australia! As always, we need your help with outreach to gather up more team members, so please tell your friends about our project and invite them to join the team, too!

www.restorethe4.org

Volunteers at NOHC are in the process of producing and publishing a book of some of our favorite stories written by NOHC member John McNutt. John's stories appear monthly in the Peninsula Daily News. We are currently selecting stories and photographs on a variety of subjects from humor to murder!

Trey Horst Eagle came with an impressive resume. He claimed to be 47 years old when he visited us. He also said his father died at age 147, his mother died at age 147.



Clallam Bay Slip Point Lighthouse: Stormy Weather and Some Sunshine.

*"Ooh, a storm is threatening
My very life today
If I don't get some shelter
Ooh yeah, I'm gonna fade away."*

This is the first verse of the Rolling Stones' song "Gimme Shelter". Keith Richards was inspired by seeing people scurrying for shelter from a sudden London rainstorm.

Our recent spate of atmospheric river systems have given us a lot of torrential rains, especially on the Strait. They are the source of much consternation for the Clallam Bay Slip Point Lighthouse Keepers group. Part of the Keepers' purpose is to make sure buildings on the site are secure, not just from break-in or vandalism, but also from forces of nature. The Keeper' Cottage roof had sustained damage from the high winds blowing away more roofing material and causing significant leaking.

On Oct. 30 Keepers President Sue Heiny led a tour of the facility for the members and David Brownell, Executive Director of NOHC. We all had a chance to see firsthand what the storms had done. There was water dripping down through the ceiling through the light fixture on the main floor of the West duplex. We toured all the rooms and could see where water had found entry.

After the early October storms and before our visit, Sue and fellow Keeper Sam Waters had ripped out sodden carpets, 1970s wall paneling, and insulation in the attic space on the west side of the cottage. They traced leaks and set up buckets to mitigate water travel through the floors and reduce the humidity to slow down black mold. Sue will continue to closely monitor and report on the roof, the rain buckets, and the general condition of the building. In the photo you can see where shingles are missing in the south (protected) side of the cottage.

BUT:

Consider the chorus of "After the Storm" of Kali Uchis and Bootsie Collins.

*The sun'll come out
Nothing good ever comes easy
I know times are rough
But winners don't quit, so don't you give up
The sun'll come out."*

We Have Lots of Good News Too:

Following the Keepers' mandate, **secure and maintain**, we've made some significant progress:

- The Keepers have been able to buy materials to replace three of four doors and one set of stairs on the Keepers' cottage. The remainder are in the works.
- The Keepers have contacted Don Crawford at Clallam County Park and Rec about roof replace-



Keepers' Cottage looking north shingles missing after the first storms of Oct. 2024

ment and he's contacted roofers for estimates. In the meantime, the keepers are looking into some durable tarping to protect the roof.

- Don Crawford is also looking for three webcams that will not only provide another layer of security but will also live stream what's happening out on the beach and Strait. We'll stream from our FB page and eventually website. We also want to contact a Webcam streamer so that our feed(s) will be available more easily.

- New signage coming.
- The next big project will most likely be looking at the garage roof at the site and figure out what needs to be done to rehabilitate it.
- The Keepers have been awarded \$10,000.00 by the Lodging Tax Advisory Committee. Part of the monies will help the Keepers develop a website

Saving the Best for Last:

On Dec. 2nd an introductory presentation to the Clallam County Heritage Advisory Board was given. This group advises the county commissioners on matters dealing with the cultural heritage of the county.

The Keepers have started working on a long-term strategic plan, our first meeting was Nov. 2nd at the Sekiu Community Center. We have begun work on preliminary goals and core values. This is important if we hope become a durable presence in the community and county.

Mike Doherty attended the initial strategic planning meeting. Besides giving us the wisdom of his experience working on and with non-profit organizations, he revealed that he has collected some pieces of the original lighthouse, and Jerry White says the Clallam Bay Visitors' Center has another piece. This bodes well for the replica lighthouse plans.

If you are interested what's going on or want to join this dynamic group email them at slippointlighthousekeeper@gmail.com and

Follow on Facebook and Instagram for newsletters and updates:

@ Clallam Bay Slip Point Lighthouse Keepers



Architect's rendition of the preservation and improvements on the CBSL Keepers' property notice the replica light house at the left of the property.



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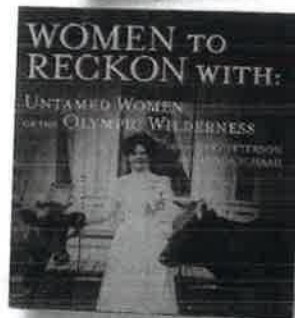
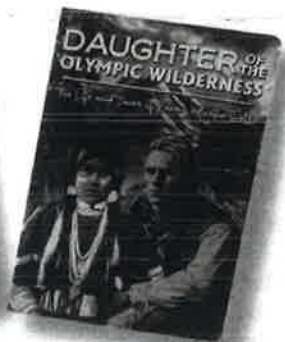
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Jim Jones
Clallam County Administrator
OR CURRENT RESIDENT
223 East 4th
Port Angeles, WA 98362

Gores, Loni

From: buckdj@olympen.com
Sent: Monday, December 16, 2024 8:34 AM
To: Gores, Loni
Cc: BEAUVAIS Connie
Subject: Commissioner Letter
Attachments: LETTER COUNTY COMMISSIONERS 12 13 2024.docx; TRUST STATUS OF CLALLAM CFBLT.docx

Hi Loni,

Please see that this gets to the commissioners.

Thanks,

Jim

December 14, 2024

From: Jim Buck
PO Box 170
Joyce, WA 98343

To: Board of Clallam County Commissioners
223 E 4th Street
Suite 4
Port Angeles, WA 98362

Subject: Clallam County Forest Board Land Trust

Dear Commissioners,

On May 8, 1936, Clallam County deeded 26,117.28 acres of fee simple county owned timberland IN TRUST to the State of Washington. This deed created an irrevocable express trust between the county and the State. The Tucker v Brown court decision says *“express trusts may be created by an ‘act of the parties’ where one party accepts ‘property with the express or implied understanding that he is not to hold it as his own absolute property, but to hold and apply it for certain specified purposes.’* The state agreed to hold the property in trust for Clallam County for purpose of developing, growing and logging timber.

Between 1936 and the mid-1940s the county added 52,000 acres, bringing the total acres held in trust to about 88,000 acres. According to DNR figures, Clallam County, it's county junior taxing districts and all of the taxpayers of Clallam County are the beneficiaries of this \$2.2 billion trust.

Under the terms of the 1936 trust, Clallam County is the settlor, the legislature is the trustee and the State Forestry Board (now DNR) is the trust administrator. No explicit language defines the terms of the trust. It is a basic principle of trust law that the settlor's intent is what controls the terms of a trust (See, United States v. 111.2 Acres of Land). *“In the absence of explicit trust language, evidence of a settlor's ‘intention to impose enforceable duties’ weighs in favor of finding that a trust exists.* Clallam County's settlor intent is recorded in the May 8 deed, where section 3b, Session Laws of 1935 Chapter 126, amending section 3b of chapter 288 of the Laws of 1927 is printed verbatim.

In the Skamania County v. State court case, the Washington Supreme Court confirmed that DNR *“must act prudently and with undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable.”*

The trustee legislature treats county trust property as its own state forestland, public land and/or state land to the detriment of the Clallam County, its junior taxing districts and taxpayers. The trustee legislature, over the last 89 years, increasingly failed to recognize the difference between state owned land and land held in trust for Clallam County. Clallam County beneficiaries, have been, and continue to be, harmed by the state's actions.

Washington State's failure to act prudently includes, but is not limited to, failure to reimburse the county for easements, rights of way, damages to resources on easements and rights of way, and multiple public uses of county trust lands. Other problems include failure to prosecute vandalism, delays/cancellation of timber sales, divided loyalty to *“interests no matter how laudable”* such as the Legacy Forest program, dubious City of Port Angeles water quality protection schemes and scenic buffer zones along the Olympic Discovery Trail.

Jim Buck

The Clallam County trust is not some exotic pastry to be divvied up for every special interest group that shows up demanding a piece of the pie. The trust is an underperforming \$2.2 billion financial asset intended to benefit Clallam County taxpayers.

RCW 36.32.120 (6) requires you to, "*Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law ...*" The attached analysis shows that Clallam County's multi-billion trust asset is being mismanaged. I urge you to consider legal action to protect Clallam County's trust beneficiaries and taxpayers.

Thank you for your kind consideration.

Jim Buck

TRUST STATUS OF CLALLAM COUNTY CFBLT

EXECUTIVE SUMMARY

On May 8, 1936, Clallam County deeded 26,117.28 acres of timberland in trust to the State of Washington. This act created an irrevocable express trust between the county and the State. Tucker v Brown says *“express trusts may be created by an “act of the parties” where one party accepts “property with the express or implied understanding that he is not to hold it as his own absolute property, but to hold and apply it for certain specified purposes.”*

Under the terms of the trust, Clallam County is the settlor, the legislature is trustee and the State Forestry Board is the trust administrator. It is a basic principle of trust law that the settlor's intent is what controls the terms of a trust (See, United States v. 111.2 Acres of Land). *“In the absence of explicit trust language, evidence of a settlor's “intention to impose enforceable duties” weighs in favor of finding that a trust exists.* The settlor's intent is recorded in the deed where section 3b, Session Laws of 1935 Chapter 126, amending section 3b of chapter 288 of the Laws of 1927 is printed verbatim. County forest board land trust is abbreviated to CFBLT throughout this document.

The trustee legislature failed to recognize and carry out its common law trust responsibilities to Clallam County. The state treats county trust as state forestland, public land and/or state land to the detriment of the Clallam County beneficiaries.

The trustee legislature's failures to Clallam County are listed here.

1. By law, CFBLTs are not state forest lands (Details in Chapter 1).
2. By law, CFBLTs are not state forest lands (see Chapter 1), therefore, by law, they cannot be state lands or public lands. CFBLTs are lands held in trust by the state for the Clallam County trust beneficiary (Details in Chapter 2).
3. Clallam county held fee simple title to the lands deeded to the state via RCW 76. Session laws of 1925 c130 s129 amended RCW 84.64.200 for a county to, **“... where no bidder appears, acquire title thereto as absolutely as if purchased by an individual under the provisions of this act.”** **“Therefore, the county beneficiary and the junior taxing district beneficiaries of the trust are “the equitable owners of the property held by the trustee (state)” and have “proprietary rights in the trust property.”** John H. Langbein, The Yale Law Journal [Vol. 105: 625] (Details in Chapter 3).
4. Clallam County entered an irrevocable express trust with the state when it deeded property to the state in compliance with 1935 session laws, chapter 126. Amending section 3b (Details in Chapter 4).
5. Deeds in trust transferring forest land from Callam County to the state in compliance with the session laws of 1935 showed intent of the county to develop and harvest timber. The terms of the trust listed above are contained in the session laws of 1923, 1927 and 1935 (Details in Chapter 5).
6. The state trustee acts imprudently and with a divided loyalty to the Clallam County trust beneficiaries when it changes the terms of the trust through legislation without regard to its common law trust responsibilities (Details in Chapter 6).
7. The trustee legislature failed to provide legislation to define and protect the Clallam County trust. This forced divided loyalties upon the trust administrator resulting in failure to harvest

TRUST STATUS OF CLALLAM COUNTY CFBLT

- timber, lawsuits, delays/cancellations of timber harvests resulting in damages to the Clallam County trust beneficiary, its junior taxing districts and taxpayers (Details in Chapter 7).
8. The trustee legislature treats Clallam County trust land as state /public land and fails to protect the Clallam County trust. This forced divided loyalties upon the trust administrator resulting in failure to collect reimbursement for easements, rights-of- way and multiple use activities resulting in damages to the Clallam County trust beneficiary, its junior taxing districts and taxpayers (Details in Chapter 8).
 9. The trustee legislature routinely changed the terms of the trust for the benefit of the state instead of the county. This forced the trust administrator to disregard its duties of prudence and undivided loyalty resulting in damages to the Clallam County trust beneficiary, its junior taxing districts and taxpayers (Details in Chapter 9).
 10. Possible solutions (Details in Chapter 10).

Additional details are contained in the following which are available on request:

Trust Table Timeline – Trust Table Timeline traces the development of federal grant lands, public lands, state forestlands and County Forest Board Trust from statehood to present (WORD, 23 pages).

RCW 79 Analysis – RCW 79 Analysis provides a section-by-section analysis of how current law relates to the terms of the 1935 trust (EXCEL, 14 pages)

History of State Forest Lands – Provides the history of State Forest lands from statehood to 1957.

Sustainable Side-by-Side – This a POWERPOINT analysis of DNR's Policy for Sustainable Forests - Background and Context. The presentation permits the viewer to see a critique of how DNR must follow the trustee legislature's direction even if it violates common law trust doctrine (30 slides).

TRUST STATUS OF CLALLAM COUNTY CFBLT

CHAPTER 1

DEFINITION OF STATE FORESTLANDS VERSUS COUNTY FOREST BOARD TRUST LANDS WHEN THE CLALLAM COUNTY TRUST WAS FORMED

STATE FORESTLANDS – The term “State forestlands” appears in the 1923 Session Laws, Chapter 154, **Section 3, AND SUBSECTION 3a IN LATER AMENDMENTS. THIS BECOMES RCW 79.22.010. IT ONLY APPLIES TO STATE OWNED LANDS.** The “State forestland” term is a phrase in part of the description of the powers given to the newly formed the State Forest Board. It says:

Sec. 3. “The Board shall have the power to acquire in the name of the State, by purchase or gift, any lands which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber, and to designate such lands and any lands of the same character belonging to the State as State Forestlands and shall furnish such care and fire protection for such lands as it shall deem advisable.”

- **THE STATUTE DOES NOT DEFINE STATE FOREST LANDS.**
- **A POSSIBLE WORKING DEFINITION FROM SECTION 3 MAY BE** “State forestlands are lands owned by the State which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber” and have been designated as such by the SFB.
- **NO DEFINITION APPEARS IN RCW UNTIL 2003 WHEN STATE FOREST LANDS ARE DEFINED AS LANDS ACQUIRED TO BE STATE FOREST LANDS (SEE LAWS OF 2003).**

Section 3 and subsection 3a are limited to creation of the “**State forestlands**” program and provide strict legislative direction to the SFB about how to do it. SFB is:

- Limited to acquiring land except “... by purchase or gift ...”
- Limited to acquiring certain lands for “the purpose of developing and growing timber...”
- Limited to designating State forestlands to lands “belonging to the State.” **THIS DESIGNATION MAY INCLUDE FEDERAL GRANT LANDS AND OTHER LANDS OWNED BY THE STATE. STATE FOREST LANDS MUST BELONG TO THE STATE.**
- Required to designate State forestland by a name or number, i.e., Capital State Forest.

COUNTY FOREST BOARD TRUST LANDS - SUBSECTION 3b BECOMES RCW 79.22.040. IT ONLY APPLIES TO COUNTY OWNED LANDS.

The term “county forest board trust lands” does not appear in the 1923 Session Laws, Chapter 154, sec. 3, the 1927 Session laws, Chapter 288, sec. 3b or any session Laws prior to creation of the Clallam CFBLT in 1935.

The closest reference is the 1927 c 288 s 3b phrase “... classification of lands described...” below:

New Section 3-b, “Any lands heretofore acquired, or which may hereafter be acquired, by any county through foreclosure of tax liens, or otherwise, **may** be offered by such county to the State of Washington for forest lands, and if such lands come within the classification of lands described in section 3 of chapter 154, Laws of 1923, the State forest board may select any or all of the lands so offered to become a part of State forest lands;

TRUST STATUS OF CLALLAM COUNTY CFBLT

- **NO DEFINITION APPEARS IN RCW. A POSSIBLE WORKING CFBLT DEFINITION BASED ON THE 1923 SESSION LAWS CHAPTER 154 SEC. 3 MAY BE** *"county forest board trust lands are county lands acquired through tax liens or otherwise, which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber, that are deeded to and held in trust by the State."*

Section 3b is limited to creation of what becomes the **"forest board transfer lands"** program and provides strict legislative direction to the SFB about how it is to be done.

- Counties **may offer** forest lands acquired by any means to SFB (**THIS IS A VOLUNTARY PROGRAM**).
- SFB **may** accept **SUITABLE** lands described in section 3 of chapter 154, Laws of 1923."
- Counties **may** deed lands to the State of Washington for State forest lands. **HOWEVER, CFBLT CANNOT BE STATE FOREST LANDS BECAUSE STATE FOREST LANDS, BY LAW, MUST BELONG TO THE STATE.**
- **SFB IS REQUIRED BY LAW TO DESIGNATE STATE FORESTLANDS BY A NAME OR NUMBER, i.e., CAPITAL STATE FOREST. SFB HAS NOT DESIGNATED ANY CLALLAM CFBLT AS A STATE FOREST.**
- **"Such lands shall be held in trust" BY THE STATE** *"and administered and protected by the said board under the provisions of chapter 154, Laws of 1923, or any amendments thereto. NOTE: THE PHRASE "amendments thereto" IS DELETED FROM THE SECTION BY SESSION LAWS OF 1935 c 126. amends s 3b.*
- **STATE SHALL PAY PROCEEDS** *"to the county in which the lands are located to be paid, distributed and prorated to the various funds (JUNIOR TAXING DISTRICTS) in the same manner as general taxes are paid and distributed during the year of such payment."*

There is a serious ambiguity here. CFBLTs are not owned by the State and cannot be designated as State forests. They cannot legally be State forest lands.

This exposes several oddities in the Session Laws between 1927 and 1951.

- **1927 CHAPTER 288 SECTION 3b**, *"If any lands ... can be used as State forest lands ... said lands shall become a part of the State forest lands..."* **CFBLT CAN'T JUST BE "STATE FOREST LANDS" BECAUSE THE STATE DOESN'T OWN THEM, BUT THEY CAN BE "A PART" OF STATE FOREST LANDS.**
- **1929 SESSION LAWS CHAPTER 117, SECTION 4**, *"shall have power to seed, plant and develop forests on any lands, purchased, acquired or designated by it as State forestlands."* **(MUST BE OWNED BY THE STATE. THERE ARE NO CLALLAM CFBLTs UNTIL 1936.)**
- **1935 SESSION LAWS CHAPTER 126, SECTION 3b**, **WORDING IS UNCHANGED FROM 1927.**
- **1936, MAY 8 - CLALLAM DEEDS FIRST LAND IN TRUST TO STATE FOR CFBLT.**
- **1937 SESSION LAWS CHAPTER 172, SECTION 3, CHAPTER 154, LAWS OF 1923 IS AMENDED**, *"such lands and any lands of the same character belonging to the State as State Forest lands ... shall be held in trust,"* **THIS IS THE FIRST MENTION OF STATE FORESTLANDS BEING HELD IN TRUST.**

TRUST STATUS OF CLALLAM COUNTY CFBLT

- 1951 SESSION LAWS, RCW 76.12.030, AS DERIVED FROM LAWS OF 1935, CHAPTER 126, SEC. 1 IS AMENDED TO READ, "... Such land shall be held in trust and administered, treated as and protected by the board as other State forest lands"

IF FOREST BOARD TRUST LANDS ARE "STATE FOREST LANDS" OR "PART OF THE STATE FORESTLANDS," WHY DID THE LEGISLATURE ENACT LEGISLATION SO THEY ARE ADMINISTERED AND PROTECTED IN THE SAME MANNER AS OTHER STATE FOREST LANDS? WHAT ARE OTHER STATE FOREST LANDS?

1. STATE FOREST LANDS ARE HELD IN TRUST FOR THE STATE BENEFICIARY.
2. CFBLTs ARE HELD IN TRUST BY THE STATE FOR THE COUNTY AND JUNIOR TAXING DISTRICT BENEFICIARIES.
3. THE INTERESTS OF THE STATE BENEFICIARY ARE NOT NECESSARILY THE INTERESTS OF A COUNTY BENEFICIARY.
4. IF THEY ARE THE SAME, WHY ARE STATE FOREST LANDS LEGISLATED IN SECTION 3a SEPARATE FROM CFBLTs IN SECTION 3b?

CONCLUSION – BY LAW, CFBLTs ARE NOT STATE FOREST LANDS.

TRUST STATUS OF CLALLAM COUNTY CFBLT

CHAPTER 2

DEFINITION OF STATE LANDS, FEDERAL (STATE) GRANT LANDS, PUBLIC LANDS, STATE FORESTLANDS, AND COUNTY FOREST BOARD TRUST LANDS WHEN THE CLALLAM COUNTY TRUST WAS FORMED

State forestlands (working definition until 2003) - "State forest lands are lands owned by the State which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber" and have been designated as such by the SFB.

County forest board trust lands (working definition) - "county forest board trust lands are lands acquired by a county through tax lien foreclosure or otherwise, which by reason of their location, topography or geological formation, are chiefly valuable for the purpose of developing and growing timber, that are deeded to and held in trust by the State."

Public lands (legal definition until 2003)- Session Laws of 1927 - CHAPTER 255. (Page 468) SB 85 - SECTION 1. **Public lands** of the State of Washington **are lands belonging to or held in trust by the State, which are not devoted to or reserved for a particular use by law,** and include **State lands, tide and shore lands ...**

- **THIS IS THE LEGAL DEFINITION OF PUBLIC LANDS IN LAW AT THE TIME THE CLALLAM TRUST WAS ESTABLISHED IN 1936. IT IS UNCHANGED UNTIL 2003.**
- **CLALLAM CFBLTs ARE "devoted and reserved for a particular use" (THE PARTICULAR USE IS THE PURPOSE OF DEVELOPING AND GROWING TIMBER FOR THE TRUST BENEFICIARY) "by law" (THE "by law" IS THE SESSION LAWS OF 1935 c 126. AS amended s 3b CITED IN THE DEEDS OF TRUST FROM THE COUNTY TO THE STATE).**
- **BY LAW, CLALLAM CFBLTs ARE NOT PUBLIC LANDS.**

State lands - Session Laws of 1927 - CHAPTER 255. (Page 468) SB 85 - SECTION 1. - "Whenever used in this act the term **"State lands" shall mean and include:**

- a) School lands, that is, lands held in trust for the support of the common schools;
 - b) University lands, that is, lands held in trust for lands... university purposes;
 - c) Agricultural college lands, that is, lands held trust for the use and support of agricultural colleges;
 - d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;
 - e) Normal school lands, that is, lands held in trust for State normal schools;
 - f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the State capital for legislative, executive and judicial purposes;
 - g) Institutional lands, that is, lands held in trust for Institutional State charitable, educational, penal and reformatory institutions; and
 - h) **All public lands of the State, except tide lands, shore lands, harbor areas and the beds of navigable waters."**
- **THIS IS THE LEGAL DEFINITION OF STATE LANDS IN PLACE AT THE TIME THE CLALLAM TRUST WAS ESTABLISHED IN 1936. IT IS THE LEGAL DEFINITION OF STATE LANDS UNTIL 2003.**

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- **AMENDMENT RECOGNIZES GRANT LANDS ARE HELD IN TRUST FOR FIRST TIME.**
- **THIS DEFINITION DOES NOT INCLUDE STATE FORESTLANDS BECAUSE STATE FORESTLANDS ARE NOT ESTABLISHED UNTIL JULY 1, 1927.**
- **MOVES SESSION LAWS OF 1897 SECTION 4 TO SECTION 1. AMENDS SESSION LAWS OF 1895 WORDING TO INCLUDE TRUST CONSIDERATIONS.**
- **DELETES 1895 SECTION 5 - "PUBLIC LANDS" AND "STATE LANDS" SHALL BE DEFINED AND DEEMED TO BE SYNONYMOUS."**

CONCLUSION - BY LAW, CFBLTs ARE NOT STATE FOREST LANDS (SEE CHAPTER 1). BY LAW, THEY CANNOT BE STATE LANDS OR PUBLIC LANDS. CFBLTs ARE LANDS HELD IN TRUST BY THE STATE FOR THE CLALLAM COUNTY TRUST BENEFICIARY.

NOTE: Session laws of 1927 Chapter 255 Section 125 illustrates a serious example of the trustee legislature's failure to recognize its duties to the trust. *"Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling himself aggrieved by any order or decision of the board of state land commissioners, or the commissioner of public lands, concerning the same, may appeal therefrom to the superior court of the county..."* **STATE'S FAILURE TO RECOGNIZE CFBLTs SUBJECTS THOSE LANDS TO LEGAL ACTION NOT PERMITTED BY RCW. THIS IS A FAILURE OF PRUDENCE AND UNDIVIDED LOYALTY.**

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CHAPTER 3

CLALLAM COUNTY OWNERSHIP OF FORECLOSED LANDS

Clallam county experienced catastrophic economic problems between 1900 and 1935. Timber companies logged tens of thousands of acres and defaulted on property taxes. Many homesteaders failed to “prove up” homesteads and abandoned their lands. Clallam county foreclosed on thousands of acres of land when owners failed to pay their taxes. These lands totaled more than 88,000 acres and were dispersed in a checkerboard pattern across the entire county.

Attorney General Opinions in 1968 and 1987 addressed the role of counties in the RCW 76 forest lands transfers. Both opinions cite case law and the wording of RCW 76 at the time the opinion was written. Both fail to examine the details of the session laws that created CFBLTs between 1923 and 1937.

Attorney General Opinion 1968-10 addressed the issue of title to lands which counties acquire through tax foreclosures. The opinion cites the 1914 *Gustavson v Dwyer* supreme court decision which found:

THE COUNTY LANDS ACQUIRED THROUGH TAX SALE “are held title in trust for the State, county, and other taxing districts entitled to tax revenue from the land. As such the county held proceeds arising from the sale or rental of these lands in trust for the various taxing districts and distributed the proceeds...”

Attorney General Opinion 1987-10 also addresses title to county tax foreclosed lands:

“As previously noted, the lands about which you inquire were obtained by the various counties through the foreclosure of tax liens as part of the statutory tax collection process. See RCW 84.64.200. Our courts have recognized on numerous occasions that: The title acquired by the county in property at a general tax foreclosure sale becomes vested in the county, not in its proprietary capacity, but in trust for the State and for the other taxing municipalities within which the land is situated, with power and obligation on the part of the county to sell the land and fairly apportion the proceeds to the State, municipal, and other funds entitled thereto.”

HOWEVER, THE SESSION LAWS OF 1893 C124 S 135 SET UP RCW 84.64.200 AS FOLLOWS:

“... the county may, by its agent, attend such sale for taxes and buy said lands and acquire the same rights that individuals now have under the law; and

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acquire, hold, sell and dispose of said title thereto the same as and in the same manner as individuals may do under the laws of this State, in case of sale for taxes."

- **THIS BODY OF LAW WAS IN PLACE FROM 1893 TO 1936 WHEN CLALLAM COUNTY FORECLOSED ON THE LANDS IT DEEDED TO THE STATE.**

SESSION LAWS OF 1925 C130 S129 AMENDED RCW 84.64.200 TO SAY,

"At all sales of property for which certificates of delinquency are held by the county, if no other bids are received, the county shall be considered a bidder for the full area of each tract or lot to the amount of all taxes, interest and costs due thereon, and where no bidder appears, acquire title thereto as absolutely as if purchased by an individual under the provisions of this act."

- **STATE LAW SAYS CLALLAM COUNTY ACQUIRED THE TITLE TO THE FORECLOSED LAND** *"... as absolutely as if purchased by an individual under the provisions of this act ..."*
- **THEREFORE, THE COUNTY HOLDS TITLE TO THE LAND AS WELL AS A LEGAL DUTY TO APPORTION THE PROCEEDS TO THE TRUST BENEFICIARIES. (IN THE SAME MANNER AS GRAYS HARBOR COUNTY DOES TO THEIS DAY):**

"... in trust for the State and for the other taxing municipalities within which the land is situated, with power and obligation on the part of the county to ... fairly apportion the proceeds to the State, municipal, and other funds entitled thereto."
- **RCW DOES NOT MENTION FORECLOSED LAND HELD IN TRUST BY A COUNTY UNTIL SESSION LAWS OF 2007 c297 AMENDED RCW 84.64.200 TO SAY:**

"If no other bids are received, the county shall be considered a bidder for the full area of each tract or lot to the amount of all taxes, interest and costs due thereon, and where no bidder appears, acquire title (~~((thereto))~~) in trust for the taxing districts as absolutely as if purchased by an individual under the provisions of this chapter." **THEREFORE, THE COUNTY HOLDS TITLE TO THE LAND AS WELL AS A STATUTORY DUTY TO APPORTION THE PROCEEDS TO THE TRUST BENEFICIARIES. (IN THE SAME MANNER AS GRAYS HARBOR COUNTY)**

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IN 1953, THE LEGISLATURE ENACTED RCW 39.33.010, SALE, EXCHANGE, TRANSFER, LEASE OF PUBLIC PROPERTY AUTHORIZED—SECTION DEEMED ALTERNATIVE. SESSION LAWS OF 1953 C 133 S1 SAYS:

“Notwithstanding any provision of law to the contrary, the State or any municipality or any political subdivision thereof may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or, including but not limited to the title to real property, to the State or any municipality or any political subdivision thereof on such terms and conditions as may be mutually agreed ...”

- **THE COUNTY MUST HAVE FEE SIMPLE OWNERSHIP OF TAX TITLE LANDS OR IT WOULD NOT BE ABLE TO:**

“... sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or, including but not limited to the title to real property, to the State...”

- **THIS CODIFIES THE ABILITY OF COUNTIES TO ENTER INDIVIDUAL AGREEMENTS WITH THE STATE, SIMILAR TO THE 1936 CLALLAM TRUST, ON MUTUALLY AGREEABLE TERMS WITHOUT HAVING TO RELY ON LANGUAGE IN 1935 SESSION LAWS CHAPTER 126, SECTION 3b.**

IN 1971, THE LEGISLATURE AMENDED RCW 39.33.010 WITH SESSION LAWS OF 1971 C 95 s 1 BY ADDING SUBSECTION 3:

“No intergovernmental transfer, lease, other disposition of property made pursuant to any other provision of law prior to the effective date of this 1972 amendatory act shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.”

- **IN OTHER WORDS, THIS LAW DOES NOT AFFECT THE 1936 TRUST AGREEMENT BETWEEN CLALLAM COUNTY AND THE STATE.**

IN 1972, THE LEGISLATURE IN THE SESSION LAWS OF 1972, c 150 s1 AND s9 RCW 36.35.020 CREATED THE DEFINITION OF “TAX TITLE LANDS” IN NEW SECTION 2 AND, IN NEW SECTION 9, DISAVOWED ANY CONNECTION OF THIS ACT WITH RCW 76.

“NEW SECTION Sec (2) The term "tax title lands" as used in this chapter shall mean any tract of land acquired by the county for lack of other bidders at a tax foreclosure sale. Tax title lands are held in trust for the taxing districts.”

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"NEW SECTION. Sec. (9) Nothing in this act shall affect any land deeded in trust to the State forest board or its successors pursuant to the provisions of title 76 RCW."

- **THE 1972 LEGISLATURE CODIFIES LAW REQUIRING COUNTIES TO HOLD TAX TITLE LANDS IN TRUST FOR THE TAXING DISTRICTS.**

CONCLUSION - CLALLAM COUNTY HELD FEE SIMPLE TITLE TO THE LANDS DEEDED TO THE STATE VIA RCW 76. SESSION LAWS OF 1925 C130 S129 AMENDED RCW 84.64.200 FOR A COUNTY TO, "... where no bidder appears, acquire title thereto as absolutely as if purchased by an individual under the provisions of this act." THEREFORE, THE COUNTY BENEFICIARY AND THE JUNIOR TAXING DISTRICT BENEFICIARIES OF THE TRUST ARE "THE EQUITABLE OWNERS OF THE PROPERTY HELD BY THE TRUSTEE (STATE)" AND HAVE "PROPRIETARY RIGHTS IN THE TRUST PROPERTY." John H. Langbein, The Yale Law Journal [Vol. 105: 625]

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CHAPTER 4

CLALLAM COUNTY TRUST AGREEMENT

LAWFUL ESTABLISHMENT OF THE CLALLAM COUNTY FOREST BOARD LAND TRUST

In accordance with the provisions of 1935 Session Laws, Chapter 126, amending section 3b of chapter 288 of the Laws of 1927 and Section 1 of Chapter 117 of the Laws of 1933, Clallam County deeded approximately 88,000 acres of county fee-simple owned land, in AN IRREVOCABLE EXPRESS trust, to the State.

- Clallam County is the settlor and grantor of the LAND.
- The Legislature is the grantee and fiduciary trustee of the LAND.
- The State Forest Board (now DNR) is the State designated trust administrator for the TRUSTEE.

AGO VIEW

Attorney General Opinions regarding RCW 76 (**NOW 79**) were rendered in 1968 and 1987. Both draw on court case law and RCW 76 language in effect at the time each opinion was written. Both fail to consider the history of the statute between 1923 and 1935.

AGO 1968 – 10 correctly addresses distribution of general taxes and excess tax levy proceeds to beneficiaries. It fails to recognize the trust referred to in RCW 76.12.030 did not exist in 1935 when Clallam County deeded the land to the State. Therefore, opinions about the trust in this AGO are invalid.

AGO 1968 – 10(1)

"When the legislature, by enactment of RCW 76.12.030, directed that tax title lands chiefly valuable for timber should be taken over and administered by the State forest board (now the department of natural resources), the transfer was not intended as a device to revise the trust under which such lands were held."

- **THERE WAS NO TRUST TO REVISE. THE STATE FORESTLANDS REFERRED TO ABOVE DID NOT BECOME TRUST LANDS UNTIL Session laws of 1937, Chapter 172. H B 508. That section 3, chapter 154, Laws of 1923, as amended by section 1, chapter 117, Laws of 1929 WHICH BECAME LAW ON JULY 1, 1937.**
- **CLALLAM COUNTY TRUST LANDS WERE DEEDED TO THE STATE BETWEEN MAY 6, 1936 AND THE 1940s IN ACCORDANCE WITH 1935 Session Laws, Chapter 126, amending section 3b of chapter 288 of the**

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Laws of 1927 and Section 1 of Chapter 117 of the Laws of 1933 WHICH BECAME LAW ON JULY 1, 1935.

AGO 1968 – 10(2)

“... the transfer was intended as a management plan under which the existing trusts would be better served through utilization of the State's professional forestry resources and services. Indeed, revision of the trust, if intended, would have introduced unnecessary and undesirable complexity in the administration of the tax statutes. Avoidance of such complexity is alone reason for interpreting "general taxes" (as used in RCW 76.12.030 and 76.12.120)5/ so as to include excess levies within the distribution formula for State forest land revenues.”

- **THE “existing trusts” IN THE CONTEXT OF THIS AGO CAN ONLY BE THE STATE, DONATING COUNTIES AND THEIR JUNIOR TAXING DISTRICT BENEFICIARIES BECAUSE THE STATE FOREST LAND TRUST WAS YET TO BE ESTABLISHED.**
- **THE GRANT LAND TRUSTS WERE FEE SIMPLE OWNED BY THE STATE AND DEDICATED BY THE FEDERAL GOVERNMENT TO SPECIFIC BENEFICIARIES. ANY ATTEMPT TO COMBINE THEM WITH CFBLT CREATES A DIVIDED LOYALTY TO THE COUNTY TRUST BENEFICIARIES.**
- **“... revision of the trust (OF THE YET TO BE ESTABLISHED FOREST LAND TRUST), if intended, would have introduced unnecessary and undesirable complexity in the administration of the tax statutes.” THIS STATEMENT SUGGESTS A DIVIDED LOYALTY FOR THE CONVENIENCE OF THE STATE AT THE EXPENSE OF THE COUNTIES.**

AGO 1987 – 10 fails to fails to recognize the trust referred to in RCW 76.12.030 did not exist in 1935 when Clallam County deeded the land to the State. It confuses State forestlands with CFBLTs. It ignores the possibility of an express trust formed between Clallam County and the State in the deeds conveying the land to the State. It also fails to consider how common law trust doctrine fits into the 1935 deed transfers. Therefore, opinions about the trust in this AGO are at best questionable.

AGO 1987 – 10(1)

“Your first question concerns the nature of the trust referred to in RCW 76.12.030. This section States in part: “Such land shall be held in trust and administered and protected by the board as other State forest lands.”

- **THIS IS AN IMMEDIATE PROBLEM BECAUSE THE SENTENCE “Such land shall be held in trust and administered and protected by the board as other State forest lands” DOES NOT APPEAR IN THE 1935 LAWS GOVERNING THE TERMS**

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OF THE CLALLAM COUNTY TRUST. THE SENTENCE FIRST APPEARS IN THE SESSION LAWS OF 1951 SESSION LAWS, RCW 76.12.030, AS DERIVED FROM SECTION 1, CHAPTER 126, LAWS OF 1935.

- THERE IS A SECONDARY PROBLEM BECAUSE THE SENTENCE COMES FROM Section 3 1937, CHAPTER 172 WHICH REFERENCES “SECTION 3, CHAPTER 154, LAWS OF 1923, AS AMENDED BY SECTION 1, CHAPTER 117, LAWS OF 1929.” SECTION 3 DOES NOT APPLY TO SUBSECTION 3b GOVERNING FOREST BOARD TRANSFER LANDS.

AGO 1987 – 10(2)

THE CORRECT OPERATIVE READING OF SUBSECTION 3b OF THE 1935 LAW APPLYING TO CFBLTs IS:

“Such lands shall be held in trust and administered and protected by the said board under the provisions of chapter 154, Laws of 1923.”

- **CONFUSION BEGINS HERE BECAUSE SECTION 3, CHAPTER 154, LAWS OF 1923 ONLY APPLIES TO STATE FORESTLANDS. IT SAYS** *“... the board... shall furnish such care and fire protection for such lands as it shall deem advisable.”*
- **CONFUSION CONTINUES BECAUSE CFBLTs DO NOT APPEAR IN LAW UNTIL 1927.** *“Such lands shall be held in trust and administered and protected by the said board under the provisions of chapter 154, Laws of 1923, or any amendments thereto.”*

AGO 1987 – 10(3)

“Your first question concerns the nature of the trust referred to in RCW 76.12.030. This section States in part: “Such land shall be held in trust and administered and protected by the board as other State forest lands.” We do not read RCW 76.12.030 as establishing a separate trust of DNR transfer lands for the benefit of each transferring county.”

- **THIS IGNORES THE EXPRESS TRUST RECOGNIZED IN THE CHUCKANUTT CASE.**

SUPREME COURT VIEW

The four supreme court decisions involving trust lands have not ruled on the issue of individual county trusts. All four confuse State forest lands with CFBLTs and several fail to recognize the laws in place when Clallam County entered the trust. They do suggest the possibility of individual trusts.

SKAMANIA 1984 –

“The remaining lands were deeded by various counties to the State after tax foreclosures, pursuant to RCW 76.12.030 (NOW 79.22.040). That statute provides that these forest

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board transfer lands are to be "held in trust" by the State and that proceeds from the management of these lands go to the grantor counties, after deducting administrative expenses."

- **THE COURT RECOGNIZES THAT FOREST BOARD TRANSFER LANDS ARE DIFFERENT THAN STATE FORESTLANDS.**

CHUCKANUTT 2010 ¶ 30 –

"Forest board transfer lands also are "held in trust," administered and protected in the same manner as other State forest lands.³⁰(NOT THE LANGUAGE IN THE 1935 LAW) The tax districts where the lands are located receive the proceeds from the State's management of these lands.³¹"

- **THE COURT RECOGNIZES THAT FOREST BOARD TRANSFER LANDS ARE DIFFERENT THAN STATE FORESTLANDS.**

CHUCKANUTT 2010 ¶ 34 –

"DNR's duties as to trust lands are unambiguous and unavoidable. In Skamania County v. State,⁴⁰ the Washington Supreme Court confirmed that DNR must act prudently and with undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable."

- **THE COURT RECOGNIZES DNR'S DUTIES TO THE TRUST LANDS BUT DOES NOT RECOGNIZE DNR IS DEALING WITH THREE SEPARATE TRUSTS, EACH WITH DIFFERENT INTERESTS REQUIRING UNDIVIDED LOYALTY.**

FRANZ 2022(1) –

"Individual counties have also granted land to the State pursuant to RCW 79.22.040 with the explicit understanding that they are held in trust for the benefit of those counties (county beneficiaries). RCW 79.64.110(1) (certain percentage of revenue generated from leasing or selling resources from these lands must be distributed to county that granted land in question)."

- **THE COURT RECOGNIZES THAT FOREST BOARD TRANSFER LANDS ARE DIFFERENT THAN STATE FORESTLANDS.**

FRANZ 2022(2) –

"Of note, DNR is expressly required by statute to harvest timber from forest board lands ..."

- **THE COURT RECOGNIZES THAT FOREST BOARD TRANSFER LANDS ARE DIFFERENT THAN STATE FORESTLANDS. DNR IS NOT REQUIRED TO HARVEST TIMBER FROM FEDERAL GRANT LANDS OR STATE FOREST LANDS.**

FRANZ 2022(3) –

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THE LAWS OF 1923 DO NOT MENTION A TRUST. ACCORDING TO 1939 BROWN V TUCKER SUPREME COURT CASE, THE 1935 LAW LEGISLATED THE CREATION AN EXPRESS TRUST BETWEEN THE STATE AND THE DONATING COUNTY WHEN IT SAYS:

“... express trusts may be created by an “act of the parties” where one party accepts “property with the express or implied understanding that he is not to hold it as his own absolute property, but to hold and apply it for certain specified purposes.” Tucker v. Brown, 199 Wash. 320, 330-31, 92 P.2d 221 (1939)

- **NO TRUST TERMS ARE INCLUDED IN THE LAWS OF 1923 THROUGH 1935. HOWEVER, THE STATE ACCEPTED PROPERTY WITH THE EXPRESS UNDERSTANDING THAT IT IS NOT TO HOLD IT AS ABSOLUTE PROPERTY, BUT TO HOLD AND APPLY IT FOR THE SPECIFIED PURPOSES IN THE DEED. CLALLAM COUNTY LANDS ARE A SEPARATE TRUST FOR CLALLAM COUNTY BENEFICIARIES.**

FRANZ-WAHKIAKUM 2022 –

“CNW seeks to disrupt over 120 years of settled law concerning the trust status of the lands managed by DNR. They view the financing of public services, including schools, rural county governments, and their junior taxing districts through the harvest and sale of forest products as “outmoded.” But the meaning of the constitution and the statutes and cases governing the management of those lands is not a matter of shifting fashion. They have no basis to wrest a critical source of funding for rural governments and schools from the named beneficiaries.”

- **THE COURT RECOGNIZES THERE IS A TRUST BETWEEN THE STATE AND COUNTIES BUT DOES NOT RECOGNIZE THAT STATE FOREST LANDS TRUST IS A SEPARATE TRUST FROM CFBLTs. DNR MUST ACT PRUDENTLY AND WITH UNDIVIDED LOYALTY TO STATE FORESTLANDS TRUST BENEFICIARIES. DNR MUST ACT PRUDENTLY AND WITH UNDIVIDED LOYALTY TO CFBLT TRUST BENEFICIARIES. THE BEST INTERESTS OF THE STATE FOREST LANDS MAY NOT ALWAYS BE THE SAME AS THE BEST INTERESTS OF CLALLAM COUNTY.**

CONCLUSION: CLALLAM COUNTY AND THE STATE ENTERED AN EXPRESS TRUST WITH THE STATE WHEN IT DEEDED PROPERTY TO THE STATE IN COMPLIANCE WITH 1935 SESSION LAWS, CHAPTER 126. AMENDING SECTION 3b.

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CHAPTER 5

LEGISLATIVE INTENT FOR COUNTY FOREST BOARD TRUST LANDS

Enacted legislation established the State Forest Board in in 1921 Session Laws Chapter 169. That law was repealed by Session Laws of 1923, Chapter 154, sections 1 through 10. This new chapter in law (RCW?) establishes the legislative intent and instructions for setting up the State Forest Board and “*providing for the acquiring, seeding, reforestation and administering of lands for State Forests.*”

Sections 3, 4 and 7 provide specific direction for what lands are to be acquired and how the lands are to be managed. This law went into effect on July 1, 1923.

- Limited to acquiring land except “... *by purchase or gift* ...” (Section 3)
- Limited to acquiring certain lands for “*the purpose of developing and growing timber...*” (Section 3)
- Limited to designating State forestlands to lands “***belonging to the State.***” (section 3)
- “... *shall have power to seed, plant and develop forests on any lands, purchased, acquired or designated by it as State Forest Lands.*” (Section 3 – **REQUIRES STATE OWNERSHIP**)
- “... *shall furnish such care and fire protection for such lands as it shall deem advisable.*” (Section 3)
- “No forest lands shall be designated, purchased, or acquired...” **UNLESS** “...*of sufficient acreage and so located that it can be economically administered for forest development purposes.*” (Section 4 – **Dungeons and Dragons Sale?**)
- Required to designate State forestland by a name or number, i.e., Capital State Forest. (Section 4)
- “All lands acquired or designated by said Board as state forest lands shall be forever reserved from sale ...” (Section 7)
- “... *the timber and other products thereon may be sold or the said lands may be leased in the same manner and for the same purposes as is authorized for the state granted lands.*” (Section 7)

In the Session Laws of 1927 Chapter 288, the legislature added Subsection 3a to the management requirements already in place from 1923.

- “Section 3a. Any lands acquired by the state under the provisions of chapter 154, Laws of 1923, or any amendments thereto, shall be logged, protected and cared for in such manner as to insure natural reforestation.” (**LAWS OF 1923 CHAPTER 154 REQUIRES STATE OWNERSHIP**)

In the Session Laws of 1927 Chapter 288, the legislature added Subsection 3b added the CFBLT class of land to SFB’s management regime. The amendment added the following to the law:

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- IT **INVITED** counties to offer “Any lands heretofore acquired, or which may hereafter be acquired, by any county through foreclosure of tax liens, or otherwise” to the State of Washington for forest lands. **(NOT STATE FORESTLANDS)**
- “... if such lands come within the classification of lands described in section 3 of chapter 154, Laws of 1923...”
- “... state forest board may select any or all of the lands so offered to become a part of state forest lands.” **(NOT STATE FORESTLANDS, “A PART OF STATE FORESTLANDS”)**
- “... upon such selection by the state forest board the board of county commissioners is authorized to deed such lands to the State of Washington for state forest lands. **(STATE FORESTS, PART OF STATE FORESTLANDS OR STATE FORESTLANDS? REGARDLESS, STATE FOREST LANDS HAVE TO BE OWNED BY THE STATE)**
- “Such lands shall be held in trust...” **LAND IS CONVEYED VIA DEED OF TRUST. STATE DOES NOT OWN LAND. CALLAM CFBLT IS NOT STATE FORESTLAND.**
- After expenses and fee “... balance remaining shall be paid to the county in which the lands are located to be paid, distributed and prorated to the various funds in the same manner as general taxes are paid and distributed during the year of such payment.”
- “... and administered and protected by the said board under the provisions of chapter 154, Laws of 1923, or any amendments thereto. **LAND IS ADMINISTERED UNDER SESSION LAWS OF 1923 CHAPTER 154 UNTIL JULY 1, 1951.**
- **CLALLAM COUNTY TRUST LAND IS NOT** “... administered, treated as and protected by the board as other state forest forest lands.”

SESSION LAWS OF 1929 AND 1933 DID NOT AMEND SECTIONS DEALING WITH ADMINISTRATION OF STATE FORESTLANDS OR CFBLTS.

In the Session Laws of 1935 Chapter 126, the legislature amended Subsection 3b by replacing the voluntary program for county land transfers to a mandatory program.:

- “... the counties shall, upon **DEMAND** by the state forest board, deed such lands to the said board and said lands shall become a part of the state forest lands” **(NOT STATE FORESTLANDS)**

THIS CONSTITUTES THE BODY OF LAW IN PLACE WHEN CLALLAM COUNTY DEEDED CFBLT LAND TO THE STATE ON MAY 8, 1936.

The legislature never codified the terms of the Session Laws of 1935 forest board trust. Legislative intent for the Clallam County trust terms is provided above. It must be interpreted from session laws enacted between 1923 and 1935 and interpreted in the context of common law trust doctrine. The

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state has duty to *“act prudently and with undivided loyalty to the (county) trust beneficiaries, to the exclusion of all other interests no matter how laudable.”*

CONCLUSION: DEEDS IN TRUST TRANSFERRING FOREST LAND FROM CALLAM COUNTY TO THE STATE IN COMPLIANCE WITH THE SESSION LAWS OF 1935 SHOWED INTENT OF THE COUNTY DEVELOP AND HARVEST TIMBER. THE TERMS OF THE TRUST LISTED ABOVE ARE CONTAINED IN THE SESSION LAWS OF 1923, 1927 AND 1935.

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CHAPTER 6

ADMINISTRATION AND DUTY TO “**ACT PRUDENTLY AND WITH UNDIVIDED LOYALTY TO THE (COUNTY) TRUST BENEFICIARIES**”

Session Laws of 1923 chapter 154 as amended by the laws of 1927, 1929, 1933 and 1935 provides for the administration of state-owned “State forestlands.” “State forestlands” are not held in trust until July 1, 1937. The trustee legislature routinely amends RCW 79 (was RCW 76) at the whim of the house/senate majority without consideration of its common law trust duties to CFBLTs.

Directions for the sale of products and lease of both categories of land are detailed in the Constitution via “... *the timber and other products thereon may be sold or the said lands may be leased in the same manner and for the same purposes as is authorized for the state granted lands.*”

Subsection 3b attempts to duplicate administration of CFBLTs in the same manner as state forestlands saying, “*Such lands shall be held in trust and administered and protected by the said board under the provisions of chapter 154, Laws of 1923.*” This fails to recognize the trust relationship between the state and county. Administration of staff, office procedures, payroll and forest practices could be the same as long as it is done “... *prudently and with undivided loyalty to the (county) trust beneficiaries.*”

RCW 79 contains approximately one hundred forty-eight sections referring to state lands, public lands and state forest lands. CFBLTs are not state lands or public lands. State forestlands are state-owned trust lands held in trust for the state beneficiary. Clallam CFBLT is held in trust for the county trust beneficiaries. What is prudent for the state beneficiary may not always be prudent for the county beneficiaries. The law legislates a divided loyalty between the state trustee and the county beneficiary by treating county trust land as state land.

Examples are:

- **RCW 79.10.100** – “*The legislature hereby directs that a multiple use concept be utilized by the department in the administration of public lands where such a concept is in the best interests of the state and the general welfare of the citizens thereof, and is consistent with the applicable provisions of the various lands involved.*” **THIS IS NOT CONSISTANT WITH THE PROVISIONS OF THE 1935 TRUST. THIS PUTS THE BEST INTERESTS OF THE STATE AND GENERAL PUBLIC AHEAD OF THE BEST INTERESTS OF CLALLAM COUNTY.**
- **RCW 79.10.210** “*For the purpose of providing increased continuity in the management of public lands and of facilitating long range planning by interested agencies, the department is authorized to identify and to withdraw from all conflicting uses at such times and for such periods as it shall determine appropriate, limited acreages of public lands under its jurisdiction. Acreages so withdrawn shall be maintained for the benefit of the public and, in particular, of the public schools, colleges, and universities, as areas in which may be observed, studied, enjoyed, or otherwise utilized the natural ecological systems thereon, whether such*

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systems be unique or typical to the state of Washington. Nothing herein is intended to or shall modify the department's obligation to manage the land under its jurisdiction in the best interests of the beneficiaries of granted trust lands. **THIS IS NOT CONSISTANT WITH THE**

TERMS OF THE 1935 TRUST. THIS TREATS COUNTY LAND AS PUBLIC LAND AND SETS UP A DIVIDED LOYALTY TO “INTERESTED AGENCIES” AND “THE BENEFIT OF THE PUBLIC.” THE SECTION DOESN’T CHANGE THE STATE’S TRUST OBLIGATION TO FEDERAL GRANT LAND TRUSTS BUT IGNORES STATE FORESTLAND TRUST AND CFBLTS. THIS IGNORES THE BEST INTERESTS OF CLALLAM COUNTY.

- **RCW 76.12.120** – “All lands, acquired or designated by the said board as state forest lands shall be forever reserved from sale, but the timber and other products thereon may be sold or the said lands may be leased ... if the board finds such sale or lease to be in the best interests of the state ...” **THIS IGNORES THE BEST INTERESTS OF CLALLAM COUNTY AND SETS UP A DIVIDED LOYALTY.**
- “In the management of public lands (**NOT CLALLAM COUNTY TRUST LANDS**) lying within the limits of any watershed over and through which is derived the water supply of any city or town (**PORT ANGELES/ELWHA**), the department **MAY** alter its land management practices to provide water with qualities exceeding standards established for intrastate and interstate waters by the department of ecology. However, if such alterations of management by the department reduce revenues from, increase costs of management of, or reduce the market value of public lands, the city or town requesting such alterations shall fully compensate the department.”
- **RCW 79.15.010 (1)** “Valuable materials situated upon state lands and state forestlands may be sold separate from the land, when in the judgment of the department, it is for the best interest of the state so to sell the same.” **THIS IGNORES THE BEST INTERESTS OF CLALLAM COUNTY AND SETS UP A DIVIDED LOYALTY. RCW 79.10.070 PROVIDES A WAY FOR THE CITY TO REQUEST WATERSHED PROTECTION. IT SAYS,**
- “In the management of public lands (**NOT CLALLAM COUNTY TRUST LANDS**) lying within the limits of any watershed over and through which is derived the water supply of any city or town (**PORT ANGELES/ELWHA**), the department **MAY** alter its land management practices to provide water with qualities exceeding standards established for intrastate and interstate waters by the department of ecology. However, if such alterations of management by the department reduce revenues from, increase costs of management of, or reduce the market value of public lands, the city or town requesting such alterations shall fully compensate the department.”
- **SESSION LAWS OF 1939 CHAPTER 130, SUSTAINED YIELD UNITS. SEC. 5.** – “The sale of timber upon state forest board (**CLALLAM COUNTY LANDS?**) land and state granted land within such sustained price yield unit or units shall be made for not less than the appraised value thereof as heretofore provided for the sale of timber on state lands:

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Provided, That, if in the judgment of the State Forest Board or the Commissioner of Public Lands, it is to the best interests of the state. **THIS IGNORES THE BEST INTERESTS OF CLALLAM COUNTY AND SETS UP A DIVIDED LOYALTY. THERE ARE APPROXIMATELY 144 MORE EXAMPLES IN RCW 79.**

CONCLUSION: THE STATE TRUSTEE ACTs IMPRUDENTLY AND WITH A DIVIDED LOYALTY TO THE CLALLAM COUNTY TRUST BENEFICIARIES WHEN IT CHANGES THE TERMS OF THE TRUST THROUGH LEGISLATION WITHOUT REGARD TO ITS COMMON LAW TRUST RESPONSIBILITIES.

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CHAPTER 7

ALL OTHER INTERESTS NO MATTER HOW LAUDABLE

"The Washington Supreme Court confirmed that DNR must act prudently and with undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable." However, DNR is a creature of the executive branch. It is by law required to do whatever the legislature tells it to do, even if it violates common law trust doctrine. Legislative amendments to RCW 79 are at the whim of the house/senate majority in power and the environmental lobby that elected them. The trustee legislature ignores the trust and treats county land as if it owns it.

"ALL THE PEOPLE" - Over the years, environmental organizations sued the state trustee over Article XVI, section 1 of the Constitution means "all the public lands granted to the state are held in trust for all the people . . ."

In 1992, this legal argument was refuted by Attorney General Opinion 1992 – 3. The AG said the phrase only applied to federal lands granted to the state by the Enabling Act. Further, the supreme court rejected the argument in 2010 Chuckanutt, 2022 Franz and 2022 Franz – Wahkiakum.

Failure of the trustee legislature to defend Clallam County trust status since then resulted in frivolous legal challenges to timber sales from Conservation Northwest, Legacy Forest Coalition, City of Port Angeles and other unqualified interveners. Trust lands granted by Clallam County to the state in accordance with the laws of 1935 do not belong to the state. They are held in trust for the Clallam County trust beneficiaries. **CLALLAM COUNTY FOREST BOARD TRUST LAND ARE NOT HELD FOR ALL THE PEOPLE.**

Legacy Forest – Environmental organizations challenged timber sales in Clallam County. This led DNR to cancel or curtail numerous timber harvests that benefits the trust beneficiaries. DNR owes Clallam County an *"undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable."* While the Legacy Forest concept may be a laudable interest, it is specifically excluded from DNR's dealings with the Clallam County trust.

THE FRANZ WAHAKIYAKUM 99183-9 (NOVEMBER 30, 2020) IV CONCLUSION STATES – *"CNW (now LFDC) seeks to disrupt over 120 years of settled law concerning the trust status of the lands managed by DNR. They view the financing of public services, including schools, rural county governments, and their junior taxing districts through the harvest and sale of forest products as 'outmoded.' But the meaning of the constitution and the statutes and cases governing the management of those lands is not a matter of shifting fashion. They have no basis to wrest a critical source of funding for rural governments and schools from the named beneficiaries."* **THE TRUSTEE LEGISLATURE FAILED TO PROVIDE LEGISLATION TO DEFINE AND PROTECT THE CLALLAM COUNTY TRUST RESULTING REGULATIONS IMPOSING DIVIDED LOYALTIES, FAILURE TO HARVEST TIMBER, UNNECESSARY LAWSUITS, DELAYS/CANCELLATIONS OF TIMBER HARVESTS RESULTING IN**

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DAMAGES TO THE CLALLAM COUNTY TRUST BENEFICIARY, ITS JUNIOR TAXING DISTRICTS AND TAXPAYERS. DNR'S ACTIONS SHOWCASE THE TRUSTEE LEGISLATURE'S DIVIDED LOYALTY TO THE TRUST BENEFICIARIES. THE SALES MUST BE REINSTITATED.

PORT ANGELES WATERSHED – On September 30, 2023, the City of Port Angeles filed an application to transfer 3,089 acres of state forest lands in the Elwha River Watershed (including Power Plant, TCB23 and Alley Cat timber sales) away from WA Department of Natural Resources industrial forest management and into protected status. While watershed protection may be a laudable interest, it is specifically excluded from DNR's dealings with the Clallam County trust.

There are number of issues with the city's request. **RCW 79.10.070 PROVIDES A WAY FOR THE CITY TO REQUEST WATERSHED PROTECTION. IT SAYS,**

*"In the management of public lands (NOT CLALLAM COUNTY TRUST LANDS) lying within the limits of any watershed over and through which is derived the water supply of any city or town (PORT ANGELES/ELWHA), the department **MAY** alter its land management practices to provide water with qualities exceeding standards established for intrastate and interstate waters by the Department of Ecology. However, if such alterations of management by the department reduce revenues from, increase costs of management of, or reduce the market value of public lands, the city or town requesting such alterations shall fully compensate the department."* **IF WATER QUALITY FAILS TO MEET DOE STANDARDS, DNR MAY CHANGE ITS PRACTICES BUT THE CITY MUST FULLY COMPENSATE THE DEPARTMENT (WHERE IS COMPENSATION FOR THE COUNTY TRUST?).**

THIS REQUEST HIGHLIGHTS MULTIPLE ISSUES BETWEEN THE TRUSTEE LEGISLATURE AND CLALLAM COUNTY. THEY ARE:

- **THE LANDS REQUESTED ARE NOT STATE FORESTLANDS OR PUBLIC LANDS. THESE ARE CLALLAM COUNTY FOREST BOARD TRUST LANDS.**
- **THE CITY OF PORT ANGELES HAS NO LAND IN THE CLALLAM COUNTY TRUST, IS NOT A JUNIOR TAXING DISTRICT BENEFICAIRY AND HAS NO CLAIM ON TRUST LANDS.**
- **THERE IS NO PROOF WATER QUALITY FAILS TO MEET "... standards established for intrastate and interstate waters by the department of ecology."**
- **DNR ACTIVITIES IN THE WATERSHED MEET THE REQUIREMENTS OF THE FOREST AND FISH PLAN BUFFER ZONES AND MEASURES TO PROTECT WATER QUALITY. WATER QUALITY IS CONSIDERED IN THE HABITAT CONSERVATION PLANS, FOREST PRACTICES APPLICATION AND SEPA ANALYSIS AND IS NOT AN ISSUE IN THE ELWHA WATERSHED.**

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- **RCW 76.12.072 PERMITS COUNTY COMMISSIONERS TO REQUEST RETURN OF STATE FOREST LAND FOR PUBLIC PARK USE AS PART OF THE COUNTY AND STATE PARK PLAN. THE COUNTY DOES NOT QUALIFY TO MAKE SUCH A REQUEST BECAUSE THE LAND IS NOT STATE FORESTLAND AND THERE IS NO PARK PLAN.**

CONCLUSION: THE TRUSTEE LEGISLATURE FAILED TO PROVIDE LEGISLATION TO DEFINE AND PROTECT THE CLALLAM COUNTY TRUST. THIS FORCED DIVIDED LOYALTIES UPON THE TRUST ADMINISTRATOR RESULTING IN FAILURE TO HARVEST TIMBER, UNNECESSARY LAWSUITS, DELAYS/CANCELLATIONS OF TIMBER HARVESTS RESULTING IN DAMAGES TO THE CLALLAM COUNTY TRUST BENEFICIARY, ITS JUNIOR TAXING DISTRICTS AND TAXPAYERS.

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CHAPTER 8 DAMAGES

Consideration of seeking damages from the trustee legislature must be left to Clallam County Commissioners and elected members of the junior taxing districts. These stem from the trustee legislatures failure to codify the difference between the state forest lands, public lands, state lands and CFBLTs over the past 89 years. The legislature via RCW79(76) has treated Clallam County trust land as its own. Statutes directed DNR to "act prudently and with undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable." The state failed to recognize that the best interests of state trusts beneficiaries may not be the best interests of Clallam County.

In general, determining if the county has been damaged entails examining DNR actions that were not prudent for the trust and/or required DNR to act with a divided loyalty when following the trustee legislatures direction. Clallam County must also examine the legislative record to see where the trustee changed the terms of the trust.

- A glaring example is the **SESSION LAWS OF 1951 WHEN RCW 76.12.030, WAS CHANGED FROM** "... and administered and protected by the said board under the provisions of chapter 154, Laws of 1923." **TO** "... Such land shall be held in trust and administered, treated as and protected by the board as other State forest State Forest lands" **THIS PERMITS THE TRUSTEE AND DNR TO CHANGE THE TERMS OF THE TRUST IN THE 1936 DEED AT WILL.**
- Another example is from the Session Laws of 1939 Chapter 130 where the legislature says, "Wherever applicable in this act, it shall be understood that the State Forest Board shall have complete authority over State Forest Board lands and the Commissioner of Public Lands complete authority over state granted land." **THE LAW DIRECTED SFB TO SET UP COOPERATIVE MANAGEMENT OF STATE FOREST BOARD LANDS AND STATE GRANTED LANDS WITH NATIONAL FOREST AND PRIVATE TIMBER LANDS IN A SUSTAINED YIELD MANAGEMENT UNIT WITHOUT CONSIDERATION OF THE TRUST.**

In 1967, the Supreme Court in the Lassen v. Arizona case held that Arizona could not transfer easements across trust lands without compensation to the trust. RCW 79 contains a number of sections where the trustee legislature permitted easements and rights of way across Clallam CFBLT without reimbursement. The county may be able to recover compensation for state failure to collect reimbursement.

- Session Laws of 1941 Chapter 123, "Section 3-A. The private contracting party or Contracting parties shall enjoy the right of easement over State Forest Board lands and state granted lands included under said cooperative agreement for railway, road and other uses

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necessary to the carrying out of the agreement. This easement shall be only for the of the cooperative agreement and shall be granted without charge with the provision that payment shall be made for all merchantable timber cut, removed or damaged in the use of such easement, payment to be based on the contract stumpage price for timber of like value and species and to be made within thirty (30) days from date of cutting, removal and/or damage of such timber and appraisal thereof by the Commissioner of Public Lands and the State Forest Board. **THE SECTION OMITTS STATE FORESTLANDS OR MISTAKENLY**

INCLUDES THEM WITH STATE FOREST BOARD LANDS. THE TERMS OF THIS SECTION 3a MAY BE BENEFICIAL WHEN APPLIED TO HARVEST ON CLALLAM CFBLT. EASEMENT ACROSS CALLAM CFBLT TO ACCESS STATE FORESTLANDS OR STATE GRANTED LANDS MUST BE REIMBURSED. PAYMENT FOR CUT, REMOVED, DAMAGED SHOULD GO TO THE COUNTY.

- **IN 1971 RCW 79.10.010** *"The legislature hereby directs that a multiple use concept be utilized by the department in the administration of public lands where such a concept is in the best interests of the state and the general welfare of the citizens thereof, and is consistent with the applicable provisions of the various lands involved.* **AUTHORIZES MULTIPLE USE IN ADMINISTRATION OF PUBLIC LANDS. PUBLIC LANDS DOES NOT INCLUDE CLALLAM CFBLT BUT THE STATE IMPOSED THE POLICY ANYWAY. SETS UP A DIVIDED LOYALTY BETWEEN THE BEST INTERETS OF THE STATE/GENERAL WELFARE OF THE CITIZENS AND THE COUNTY TRUST. DOES NOT INCLUDE REIMBURSEMENT FOR THE COUNTY FOR ORV PARK OR TRAILS ON CFBLT.**
- **RCW 79.01.01 REFERENCE ADMINISTRATION OF PUBLIC LANDS CONFLICTS WITH RCW 79.10.110 WHICH DEFINES** *"Multiple use" as used in RCW 79.10.070, 79.44.03 and this chapter shall mean the management and administration of state-owned lands under the jurisdiction of the department* **CLALLAM CFBLT IS NOT PUBLIC LAND OR STATE-OWNED LAND COVERED BY RCW 79.10.**
- **In 1961, the legislative trustee added RCW 79.36.355** *"The department may grant to any person such easements and rights in public lands, not otherwise provided in law, as the applicant applying therefor may acquire in privately owned lands. No grant shall be made under this section until such time as the full market value of the estate or interest granted together with damages to all remaining property of the state of Washington has been ascertained and safely secured to the state.* **THIS IGNORES THE CLALLAM CFBLT, CONFUSES THE TRUST WITH PUBLIC LANDS AND CHANGES THE TERMS OF THE TRUST. FULL MARKET VALUE FOR PROPERTY OF THE STATE (NOT CLALLAM CFBLT) IS SECURED.**

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CONCLUSION:

1. THE TRUSTEE LEGISLATURE FAILED TO PROVIDE LEGISLATION TO DEFINE AND PROTECT THE CLALLAM COUNTY TRUST. THIS FORCED DIVIDED LOYALTIES UPON THE TRUST ADMINISTRATOR RESULTING IN FAILURE TO COLLECT REIMBURSEMENT FOR EASEMENTS, RIGHTS-OF-WAY AND MULTIPLE USE ACTIVITIES RESULTING IN DAMAGES TO THE CLALLAM COUNTY TRUST BENEFICIARY, ITS JUNIOR TAXING DISTRICTS AND TAXPAYERS.
2. THE TRUSTEE LEGISLATURE ROUTINELY CHANGED THE TERMS OF THE TRUST WITHOUT REGARD ITS DUTIES OF PRUDENCE AND UNDIVIDED LOYALTY RESULTING IN DAMAGES TO THE CLALLAM COUNTY TRUST BENEFICIARY, ITS JUNIOR TAXING DISTRICTS AND TAXPAYERS.

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CHAPTER 9

PATH FORWARD - Possible discussion points.

Demands

- Recognize terms of 1935 CFLBT
- Not state forestland, state land or public land
- Evaluation of all legislative actions effecting trust since 1935
 - Did action effect the trust?
 - Was the effect detrimental?
 - Was the action prudent?
 - Did the action help/hinder the trust
 - Reimburse for easements?
 - Reimburse for rights of way?
 - Reimburse for vandalism?
 - Reimburse for watershed?
 - Reimburse for multiple use?

Did the action violate divided loyalty?

- Does sustainable harvest penalize county?
- Cancellation/delay of timber sales?
- Failure to prosecute vandals.
- Failure to defend sales that meet law
- Address arrearage

Concessions

- Forest practices that don't discriminate against the trust.
- Policies that support federal HCP and ESA programs.
- SEPA that doesn't discriminate.

Bargaining points

- Limited multiple use permitted
- Discuss free access contracts across county land

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- Discuss payment for salvage
- Discuss efficacy of trust land transfer
- Discuss efficacy of encumbrances

Damages

- Reimburse for easements?
- Reimburse for rights of way?
- Reimburse for vandalism?
- Reimburse for watershed?
- Reimburse for multiple use?
- Reimburse for cancelation/delay?
- Reimburse for lost revenue?