

MAR 28 2008

RECREATION AND CONSERVATION OFFICE

Project Sponsor: Chelan Co Natural Resource
Project Title: BNSF Railroad and Wenatchee Basin Coordination

Project Number: 07-1885N
Approval Date: 12/13/2007

A. PARTIES OF THE AGREEMENT

This Project Grant Agreement (Agreement) is entered into between the Salmon Recovery Funding Board (SRFB), P.O. Box 40917, Olympia, Washington 98504-0917 and Chelan Co Natural Resource, 316 Washington Street Suite 401, Wenatchee, WA 98801 (Sponsor) and shall be binding upon the agents and all persons acting by or through the parties.

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the Salmon Funding Accounts of the State of Washington's General Fund. The grant is administered by the SRFB to the Sponsor for the project named above.

C. DESCRIPTION OF PROJECT

The subject Project is described on the attached Project Summary.

D. TERM OF AGREEMENT

The Project Sponsor's on-going obligation for the project shall be the same as the Period of Performance period identified in Section E.

E. PERIOD OF PERFORMANCE

The Project reimbursement period shall begin on December 13, 2007 and end on October 31, 2009. No expenditure made before or after this period is eligible for reimbursement unless incorporated by written amendment into this Agreement.

F. PROJECT FUNDING

The total grant award provided by the SRFB for this project shall not exceed \$46,006.00. The SRFB shall not pay any amount beyond that approved for funding of the project. The Sponsor shall be responsible for all total project costs that exceed this amount. The contribution by the Sponsor toward work on this project at a minimum shall be as indicated below:

	Percentage	Dollar Amount
SRFB - Salmon Federal Projects	85.00%	\$46,006.00
Project Sponsor	15.00%	\$8,119.00
Total Project Cost	100.00%	\$54,125.00

G. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this Agreement are subject to this Agreement and its attachments, including the Sponsor's Application, Project Summary, Eligible Reimbursement Activities Report, Project Milestones, and the General Provisions, all of which are attached hereto and incorporated herein.

Except as provided herein, no alteration of any of the terms or conditions of this Agreement will be effective unless provided in writing. All such alterations, except those concerning the period of performance, must be signed by both parties. Period of performance extensions need only be signed by RCO's Director.

The Sponsor has read, fully understands and agrees to be bound by all terms and conditions as set forth in these documents.

H. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCO POLICIES

This Agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including Chapter 77.85 RCW, Chapter 286 WAC and published agency policies, which are incorporated herein by this reference as if fully set forth.

I. ADDITIONAL PROVISIONS OR MODIFICATIONS OF THE GENERAL PROVISIONS

1. On July 1, 2007, the name of the Interagency Committee for Outdoor Recreation changed to the Recreation and Conservation Funding Board and the office name changed to the Recreation and Conservation Office. The General Provisions of the Project Agreement do not reflect this change. To allow immediate implementation of this project, the existing provisions are hereby incorporated into the agreement. All references to the Board refer to the Recreation and Conservation Funding Board. References to the Office refer the Recreation and Conservation Office.
2. Before reimbursement of any related expenses, the sponsor must comply with Governor's Executive Order 05-05 regarding Archeological and Cultural Resources for the scope of work approved in this Project Agreement. The Recreation and Conservation Office will issue a notice to proceed when appropriate documentation has been received.

In the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop; the area must be secured, and the Sponsor must notify the concerned tribe's cultural staff and cultural committee, the Recreation and Conservation Office, and Department of Archaeology and Historic Preservation.

J. FEDERAL FUND INFORMATION

A portion or all of the funds for this project are provided through a federal funding source. Funds provided from the US Dept of Commerce must be reported under CFDA #11.438 - Salmon Restoration and Award Number NA07NMF4380301 for federal fiscal year 2007.

As a sub-recipient of the federal funds, you are required to provide the SRFB with a summary of the federal expenditures by CFDA # for each year. If your total federal expenditures are \$500,000.00 or more in a one-year period, you are required to have a federal single audit in compliance with OMB Circular A-133.

K. PROJECT GRANT AGREEMENT REPRESENTATIVE

All written communications sent to the Sponsor under this Agreement will be addressed and delivered to:

Project Contact

Name: Michael Kaputa
Title:
Address: 316 Washington Street, Suite 401
Wenatchee, WA 98801

SRFB

Recreation and Conservation Office
Natural Resources Building
PO Box 40917
Olympia, Washington 98504-0917
www.rco.wa.gov/srfb/

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

L. ENTIRE AGREEMENT

This agreement, along with all attachments, constitutes the entire agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

M. EFFECTIVE DATE

This agreement, for project #07-1885N, shall be effective upon signing by all parties.

STATE OF WASHINGTON
RECREATION AND CONSERVATION OFFICE

BY: Rachael Vanger, Deputy Director
Kaleen Cottingham, Director

DATE: 2/12/08

PROJECT SPONSOR

BY: Bruce Housh
TITLE: Commissioner

DATE: 3/10/01

Pre-approved as to form:

BY: /S/
Assistant Attorney General

Exhibit J – Federal Fund Information Certification

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to the department, institution, or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 41 CFR 105, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment Suspension, Ineligibility, and Voluntary Exclusion -- Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 41 CFR 105, debarred, suspended, declared ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from the federal procurement and non-procurement programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Exhibit J – Federal Fund Information Certification

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 41 CFR 105, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Michael Kyuta, Director, Natural Resources

Name and Title of Authorized Representative

[Signature]

Signature

4/2/08

Date

11-438 Salmon Restoration

Name of Sub-grant Project

07-1885

Press Release Template

Chelan Co Natural Resource offered grant to develop a plan or assessment for salmon recovery.

(Wenatchee) - Chelan Co Natural Resource was awarded a grant of \$46,006.00 from the Salmon Program. The grant was awarded by the Salmon Recovery Funding Board (SRFB), and will be used for the following:

Chelan County will use this grant to develop a project proposal and review process with the Burlington Northern and Santa Fe Railroad to help implement projects on railroad land. Work will include building a coalition of support, including stakeholders such as legislators and the tribes; identifying data requirements for engineering evaluations; determining project approval criteria; and establishing an official proposal, review and approval process. The construction of roads and railroads had constricted the Wenatchee River, simplified stream channels, isolated off-channel habitat and floodplains and generally degraded the habitat required to recover endangered salmon. By creating a review and approval process with the railroad, the County will be better able to gain access to valuable habitat. The county will contribute \$8,119 from a state grant.

There were ninety-three applications submitted for consideration in the Salmon Program. Each project went through an evaluation process prior to being recommended for funding. The SRFB Board approved funding for projects on Thursday, December 13, 2007.

Funding for the Salmon Program comes from funds administered by NOAA Fisheries. Chelan Co Natural Resource will leverage local contributions totaling \$8,119.00 with grant monies to implement the project. Total estimated project cost is \$54,125.00. SRFB is the state's administrator of the grant program.

Contact: Michael Kaputa, (509) 667-6584 (sponsor project manager)

Marc Duboiski, (360) 902-3137, marcd@rco.wa.gov (SRFB project manager)



Salmon Program Federal Recovery Projects Post-Evaluation Project Summary

TITLE: BNSF Railroad and Wenatchee Basin Coordination			NUMBER: 07-1885N (Non-Capital)
			STATUS: Board Funded
SPONSOR: Chelan Co Natural Resource			EVALUATION SCORE:
			BOARD RANKING:
COSTS:			SPONSOR MATCH:
Salmon Federal Projects	\$46,006	85%	Grant - State
Local	\$8,119	15%	
Total	\$54,125	100%	

DESCRIPTION:

In response to recommendations provided by the Upper Columbia River Technical Team (UCRTT) (2007b) and the Upper Columbia Salmon Recovery Board (UCSRB) (2006), the Chelan County Natural Resource Department (CCNRD) seeks funding to develop a project proposal and review process with the Burlington Northern and Santa Fe (BNSF) Railroad that will facilitate the implementation of projects on BNSF land. In order to accomplish this task, the CCNRD will work to build a coalition of support, including stakeholders such as state representatives and the tribes. The CCNRD will work with BNSF representatives to identify data requirements for engineering evaluations, determine project approval criteria, and establish an official proposal, review, and approval process prior to specific project proposals.

Throughout the Wenatchee subbasin, the construction of channel confining features such as the roads and railroads has straightened and simplified existing stream channels, disconnected off-channel habitat and floodplain, and generally resulted in the degradation of the habitat required for ESA listed salmonids. The elimination of channel complexity and off-channel habitat are primary habitat limiting factors (HLF) throughout the Wenatchee subbasin and have thus been identified as top priorities for restoration projects. By creating a review and approval process with BNSF, this project seeks to gain access to valuable, yet disconnected, off-channel and floodplain habitat.

LOCATION INFORMATION:

Nason Creek flows out of Lake Valhalla near Stevens Pass and flows east for approximately 21 miles before heading north and flowing into the Wenatchee River immediately below Lake Wenatchee at RM 53.6

LEAD ENTITY ORG: Chelan County LE

COUNTY:

GOAL & OBJECTIVE:

The goal of the project is to increase/improve information to help select projects that have a high certainty and benefit.

The objective of the project is to determine project siting, feasibility, design, or implementation.

SALMON INFORMATION: (* indicates primary)

Species Targeted

Bull Trout
Chinook*

Coho
Steelhead

Habitat Factors Addressed

Biological Processes
Channel Conditions*
Floodplain Conditions

Loss of Access to Spawning and Rearing Habitat
Riparian Conditions
Streambed Sediment Conditions

FISCAL YEAR: 2008

DATE PRINTED: February 8, 2008



Eligible Reimbursement Activities Report

Project Sponsor: Chelan Co Natural Resource
Project Title: BNSF Railroad and Wenatchee Basin Coordination

Project Number: 07-1885 N
Approval: 12/13/2007

Non Capital Items:

Worksite	Element	Item	Unit	Quantity	Description
#1, Nason Creek Example	Professional Services	Consultant(s)	Lump sum	1.00	Research component, development of final document
#1, Nason Creek Example	Salaries & Benefits	Salaries & Benefits - othe	# of FTE's	1.00	Natural Resource Specialist
#1, Nason Creek Example	Salaries & Benefits	Salaries & Benefits - othe	# of FTE's	1.00	Director
#1, Nason Creek Example	Salaries & Benefits	Salaries & Benefits - othe	# of FTE's	1.00	Director
#1, Nason Creek Example	Salaries & Benefits	Salaries & Benefits - othe	# of FTE's	1.00	Director and Natural Resource Specialist
#1, Nason Creek Example	Salaries & Benefits	Salaries & Benefits - othe	# of FTE's	1.00	Grant Administrator
#1, Nason Creek Example	Sales Tax	Sales Tax	Lump Sum	1.00	
#1, Nason Creek Example	Transportation/Travel	Transportation/travel - oth	Lump sum	1.00	3 coalition representatives to Washington D.C. for 3 days

Milestone Report By Project

Project Number: 07-1885 N
Project Name: BNSF Railroad and Wenatchee Basin Coordination
Sponsor: Chelan Co Natural Resource
Project Manager: Marc Duboiski

X	!	Milestone	Target Date	Comments/Description
		Project Start	12/13/2007	
		RFP Complete	01/01/2008	
	!	Bid Awarded/Consultant Hired	01/01/2008	
		Data Gathering Started	01/01/2008	
		Special Conditions Met	01/29/2008	Compliance with Executive Order 05-05 (cultural resources) was met via the Department of Archaeology & Historic Preservation letter concurring that this project is exempt.
		Annual Project Billing	07/31/2008	
	!	Draft Rpt Reviewed by Mgmt Agy	04/30/2009	
		Annual Project Billing	07/31/2009	
	!	Final Report Completed	09/30/2009	
	!	Project Complete	10/31/2009	
		Final Docs/Billing to Mgmt Agy	12/31/2009	

X = Milestone Complete

! = Critical Milestone

SECTION 1. HEADINGS AND DEFINITIONS

Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.

Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

Agreement - The accord accepted by all parties to the present transaction; the Agreement, supplemental agreement, and intergovernmental agreement between the Funding Board and a Sponsor.

Applicant - Any agency or organization that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the Funding Board.

Application - The forms and support documents approved by the Funding Board or the Director for use by applicants in soliciting project funds administered by the Office.

Director - The Office Director or the Director's designee.

Funding Board - As identified in Paragraph A in the Agreement as either the (1) Interagency Committee for Outdoor Recreation (IAC) - The committee created under Chapter 79A.25.110 RCW includes eight members. Three are agency heads: the Commissioner of Public Lands, the Director of Parks and Recreation, and the Director of Fish and Wildlife (or their designees). Five, by appointment of the Governor with the advice and consent of the Senate, are members of the public at large who have demonstrated interest in and a general knowledge of outdoor recreation in the state; (2) Salmon Recovery Funding Board (SRFB) - The Board created under Chapter 77.85.110 RCW, is comprised of five governor-appointed voting members (one a cabinet-level appointment) and five non-voting state officials: the Commissioner of Public Lands, the Secretary of Transportation, the Director of the Conservation Commission, the Director of Fish and Wildlife, and the Director of Ecology (or their designees); or (3) Hatchery Scientific Review Group (HSRG) - The independent Board established by Congress to ensure hatchery reform programs in Puget Sound and Coastal Washington are scientifically founded and evaluated.

Milestone - Important date(s) tracked in the Agreement for monitoring the Project status.

Office - Office of the Interagency Committee - The Office provides support to the IAC, SRFB, and HSRG. The Office includes the Director and personnel, created by Chapters 79A.25.110 and 79A.25.150 RCW and charged with administering this Agreement by Chapters 77.85.110 and 79A.25.240 RCW.

Period of Performance - The time period specified in the Agreement, under Section E, Period of Performance.

Post Evaluation Summary - One of the documents used to summarize and describe the actions undertaken in the Agreement.

Project - The undertaking that is the subject of this Agreement and that is, or may be, funded in whole or in part with funds administered by the Office on behalf of the Funding Board.

Public Agency - For the purposes of this chapter, the term "public agency" shall mean any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state. The term "state" shall mean a state of the United States.

Sponsor - The applicant who has been awarded a grant of funds and is bound by this executed Agreement; includes its officers, employees and agents.

SECTION 2. PERFORMANCE BY SPONSOR

The Sponsor shall undertake the Project as described in this Agreement, Post Evaluation Summary, the Sponsor's application, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the Funding Board. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the Project is important. Failure to do so, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

SECTION 4. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

SECTION 5. RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

SECTION 6. RIGHTS IN DATA

Copyright in all material created by the Sponsor and paid for by the Office as part of this Agreement shall be the property of the state of Washington. Both the Sponsor and Office may use these materials, and permit others to use them, for any purpose consistent with their respective missions as agencies of the state of Washington. This material includes, but is not limited to: books, computer programs, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes, and/or training materials. Material which the Sponsor uses to perform this Agreement, but which is not created for or paid for by the Office shall be owned by the Sponsor or such other party as determined by Copyright Law and/or Sponsor's internal policies; however, for any such materials, Sponsor hereby grants (or, if necessary and to the extent reasonably possible, shall obtain and grant) a perpetual, unrestricted royalty free, non-exclusive license to the Office to use the material for internal purposes.

SECTION 7. DEBARMENT CERTIFICATION

The Sponsor certifies it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. If requested by the Office, the Sponsor shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Sponsor for this Agreement shall be incorporated into this Agreement by reference.

SECTION 8. NON-AVAILABILITY OF FUNDS

If amounts sufficient to fund the grant made under this Agreement are not appropriated by the Washington State Legislature, or if such funds are not allocated by the Washington State Office of Financial Management (OFM) to the Office for expenditure for this Agreement in any biennial fiscal period, the Office shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or OFM occurs. If the Office participation is suspended under this section for a continuous period of one year, the Office's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

SECTION 9. ADVANCE PAYMENTS PROHIBITED

Advance payments of or in anticipation of goods or services to be provided under this Agreement are limited to salmon restoration grants and must comply with SRFB policy.

SECTION 10. BILLING PROCEDURE

The Sponsor shall submit invoices to the Office at least once a year. Payment to the Sponsor for approved and completed work will be made by warrant or account transfer by the Office within 30 days of receipt of the invoice. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

Section 11. RECOVERY OF PAYMENTS

In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, the Office reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance.

The Sponsor shall reimburse the Office for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by the Office. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

SECTION 12. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute, rule, or policy or procedure, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and/or state statutes, regulations policies and procedures including applicable federal Office of Management and Budget (OMB) circulars and federal and state executive orders;
- B. Additional Provisions or Modifications of the General Provisions;
- C. General Provisions; and
- D. Any other attachments or provisions incorporated by reference or otherwise stated in this Agreement.

SECTION 13. AGREEMENT CHANGES, MODIFICATIONS AND AMENDMENTS

This Agreement may be changed, modified, or amended by written agreement executed by both parties.

SECTION 14. APPLICATION REPRESENTATIONS -- MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Board and the Office rely upon the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SECTION 15. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

SECTION 16. LEGAL RELATIONS

Each party to this Agreement shall be responsible for injury to persons or damage to property resulting from negligence on the part of itself, its employees, its agents, or its officers. Neither party assumes any responsibility to the other party for the consequences of any act or omission of any third party.

SECTION 17. TERMINATION

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

SECTION 18. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

SECTION 19. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

SECTION 20. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be proper only in Thurston County Superior Court. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

In the cases where this agreement is between the Funding Board and a federally recognized Indian tribe, the following Governing Law/Venue applies:

- A. The State of Washington agrees that it shall initiate any lawsuit against a federally recognized Indian tribe arising out of or relating to the performance, breach or enforcement of this agreement in Federal Court. Interpretation shall be according to the law of the State of Washington. In the event that the Federal Court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the parties agree to venue in Thurston County Superior Court, but the parties agree that the matter shall not be pursued in superior court unless there is a Federal Court determination that it lacks subject matter jurisdiction.
- B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from the action shall be binding and enforceable upon the parties. Any money judgment or award against the Tribe, tribal officers and members, or the State of Washington and its officers and employees may not exceed the amount provided for in Section F- Project Funding of the Agreement.
- C. The Tribe hereby waives its sovereign immunity as necessary to give effect to this section, and the State of Washington has waived its immunity to suit in state court. These waivers are only for the benefit of the Tribe and State and shall not be enforceable by any third party or by any assignee or delegate of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

SECTION 21. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.