

101-09-004

FILE COPY

**Memorandum of Agreement Between
Clallam County, and
The Lower Elwha Klallam Tribe**

This Memorandum of Agreement is by and between Clallam County, ("County"), and the Lower Elwha Klallam Tribe, ("Tribe").

WHEREAS Stratton Road, County Route #31690 and Indian Reservation Roads Route # 125-5309-820/125-052, runs from Lower Elwha Road south for a distance of 4000 feet, more or less, and serves tribal trust land and the Lower Elwha Indian Reservation; and

WHEREAS a proposed route, the Elwha Valley Access, BIA Route # 125-0110/19, will run from Lower Elwha Road at MP 0.788 west and north to the existing boundary of Tribal Trust Land for a distance of 4000 feet, more or less, then continue across Tribal trust and Reservation land, to the north and west, to Stratton Road, then north along Stratton Rd to intersect Lower Elwha Road, and

WHEREAS the County currently operates and maintains Stratton Road, which serves the interior of the Lower Elwha Reservation and is intended to become a part of the Elwha Valley Access improvement project, and

WHEREAS the Tribe has received Public Lands and Highway Administration funding to construct the Elwha Valley Access, and

WHEREAS, it is within the best interests of the County and the Tribe to secure and retain uniform jurisdiction between lands and roads, now

THEREFORE, the parties agree that:

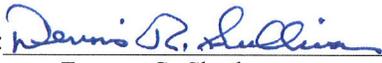
- A. The County shall petition for vacation of all County interest in Stratton Road.
- B. The County shall quit claim any and all fee simple and/or otherwise acquired rights-of-way parallel with Stratton Road to the Tribe.
- C. The Tribe shall apply to the United States for federal trust acquisition of all parcels conveyed from the County to the Tribe under 25 CFR §151. The County agrees to support the Tribe's application for trust acquisition.
- D. The Tribe shall accept responsibility for the right-of-way, operation and maintenance of Stratton Road as a public road as defined in 25 CFR §170.5.
- E. The Tribe shall convey by quit claim, and the County shall accept, rights-of-way that the Tribe acquires, whether by fee simple or by easement, for the proposed Elwha Valley Access where the project crosses fee land outside the Lower Elwha Indian Reservation and tribal trust lands. Conveyances to the County shall occur as rights-of-way or easements are acquired.
- F. In addition, the County shall accept, and the Tribe shall grant and support U.S Department of Interior or Bureau of Indian Affairs (BIA), approval for an easement across the tribal trust parcel east of the City of Port Angeles ("City") right-of-way for the City's industrial water pipeline (Exhibit A), pursuant to 25 CFR Part 169 or other appropriate authority.
- G. Following construction of the Elwha Valley Access, the County shall operate and maintain, within the Clallam County Road Inventory, that portion of the Elwha Valley Access located upon the rights-of-way and easement or easements to be transferred to the County under paragraph E above
- H. The Tribe shall design and construct the road to meet or exceed all requirements set forth within the most current Washington State Standard Specifications for Road, Bridge, and Municipal Construction.

- I. In the event that the Lower Elwha Valley Access Project is not implemented, for any reason, or upon written request of the Tribe, all ownership of any such land transferred by the Tribe to the County under paragraph E of this MOA shall be returned to the Tribe, by the County, through the quit claim process.
- J. This memorandum is binding upon the signatories hereto not as individuals, but solely in their capacities as officials of their respective governments, and the parties acknowledge that proper action has been taken by the County, the Tribe, and the BIA to enter into the same.
- K. This agreement shall become effective as of the last date written below.

Clallam County

By:  Date: February 10, 2009
 Michael C. Chapman, Chairman
 Board of Clallam County Commissioners
 Howard v. Doherty, Jr.

Lower Elwha Klallam Tribe

15/ By:  Date: Feb 13, 2009
 Frances G. Charles
 Lower Elwha Klallam Tribal Chair

Approved as to form only:

 Date: Jan 27, 2009
 Courtney A. Popp, WSBA #35470
 Clallam County Prosecuting Attorney

 Date: Jan 27, 2009
 Stephen Saugee
 Lower Elwha General Counsel
 WSBA #26776

