



PORT GAMBLE S'KLALLAM TRIBE

31912 Little Boston Road NE • Kingston, WA 98346

November 3, 2010

VIA ELECTRONIC AND U.S. MAIL

Commissioner Steve Bauer
Kitsap County Board of Commissioners
Commissioners' Office, MS-4
614 Division Street
Port Orchard, WA 98366
sbauer@co.kitsap.wa.us

Re: North Kitsap Legacy Partnership
Draft Memorandum of Understanding (August 31, 2010)
Objections and Concerns from the Port Gamble S'Klallam Tribe

Dear Commissioner Bauer:

I would like to thank you and the other County Commissioners for postponing the vote on the North Kitsap Legacy Partnership Memorandum of Understanding ("NKLP MOU"). I also appreciate the discussions we had recently and your visit with the Port Gamble S'Klallam Tribal Council on October 27th. That exchange with the Council was an important step in deciding what to do with Pope Resources land in North Kitsap County.

The Tribe recognizes the rare opportunity that exists to preserve large parts of North Kitsap now owned by Pope, and we strongly support that part of the NKLP vision. The Tribe has pursued that objective for over a year, and we hope to continue that work, in partnership with the County and others, until it succeeds.

Our Tribal Council's first obligation as representatives of the Port Gamble S'Klallam people, however, must be to protect our homeland. Our history and our ancestors are literally part of the ground beneath the town of Port Gamble. The Bay and the natural landscape around it have been a part of our people since time immemorial. Our culture and way of life depend on the spiritual and material resources this special place provides.

The NKLP so far has presupposed regulatory changes to allow more intense development at Port Gamble. Such development would put natural resources, history, and the remains of our ancestors at risk. No matter how much – or how little – we trust the technology of sustainable development or the intentions of the landowner, those risks will remain. The risks will be increased if development plans proceed quickly and environmental analyses are deferred. The Tribe would unequivocally prefer the sale of Pope's land in twenty-acre parcels and development of the town under its current

LAMIRD designation to a proposal that would change the rules to permit even more development at Port Gamble. So long as such development is integral to the NKLP, the Tribe has no choice but to oppose it.

Fortunately, I believe the NKLP can be reshaped into a vehicle that protects open space, preserves rather than obscures the historic company town, and restores Port Gamble Bay for all Kitsap citizens, without sacrificing what the Tribe holds most dear. Now that you have met with the Tribal Council, we need to identify the concrete steps we can take together soon to pursue that vision.

Your staff has asked for tribal recommendations regarding the draft MOU. Such recommendations would be premature, given the Tribe's questions about the basic assumptions behind the MOU. We understand, however, and appreciate the County's desire to better understand the Tribe's specific concerns. To that end, I am attaching a list prepared by tribal staff and me that lays out the Tribe's concerns. Some are particular to the NKLP proposal; others would apply to development under existing regulations, as well. These concerns will guide the Tribe's actions with regard to Pope's property and the NKLP in the future.

In conclusion, thank you again for your visit and our recent discussions. They left me feeling more optimistic that we can secure a positive legacy from the departure of Pope Resources from North Kitsap.

With regards,



Jeromy Sullivan, Chairman
Port Gamble S'Klallam Tribe

encl.

cc: Commissioner Josh Brown
Commissioner Charlotte Garrido
Senator Phil Rockefeller
Representative Christine Rolfes
Representative Sherry Appleton
U.S. Congressman Jay Inslee

PORT GAMBLE S'KLALLAM TRIBE
CONCERNS REGARDING DEVELOPMENT AT PORT GAMBLE AND FUTURE
USE OF LANDS NOW OWNED BY POPE RESOURCES

October 2010

1. As much as possible of the Port Gamble Bay watershed, especially marine shorelines, needs to be protected by public, Tribal or conservation trust ownership and by conservation easements on Pope Resources' properties that are sold for development.
2. Regulatory changes to allow commercial, industrial, or higher density residential development at Port Gamble should not be considered, and existing laws should be used to minimize such development, until pollution at the former Mill site and in the Bay has been cleaned up, mitigated and monitored. The Tribe, the State and the federal agencies need to assess the restoration for at least five years after cleanup to confirm the health of the Bay. Before then, it will be impossible to evaluate the impacts or sustainability of any potential development.
3. The current NKLP proposal would essentially provide for the transfer of development rights to increase density in the Port Gamble block. This is inconsistent with the intent of the Growth Management Act's TDR provisions and will result in calls for similar transfers and development by other large landowners, threatening water, wildlife, and tribal treaty resources throughout the County.
4. Under the recent Court of Appeals decision in *Suquamish Tribe v. Central Puget Sound Growth Management Hearings Board*, densities in unincorporated UGAs in Kitsap County should be increased and will accommodate the population reserve that could be assigned to Port Gamble or any Fully-Contained Community. Directing development to the current UGAs will protect rural areas and treaty resources and avoid the traffic snarls and sprawl that have resulted from FCC's elsewhere.
5. PGST will oppose any development that includes or would permit a marina, dock, marine structure or any other activity at Port Gamble that would threaten a shellfish bed closure, harm the herring spawning grounds, or increase vessel conflicts with tribal fishing gear.
6. The Port Gamble sewer outfall must be extended well beyond the geoduck tracts, or be replaced or modified to minimize impacts to marine habitat and to eliminate the existing shellfish bed closure at the outfall. This area is jointly managed and generates important public revenues and economic activity for the Tribes and the State.
7. Businesses at Port Gamble must be held to federal, state and county land use and environmental regulations. Unlawful, unregulated or poorly monitored industrial activity in and near Port Gamble Bay and the former mill site is an on-going problem.
8. Creative efforts are needed to restrict vesting of development rights prior to administrative or judicial review. Citizens should not be stuck with the impacts of development under rules that later prove unlawful. This is especially true for

regulation under development agreements, which offer great benefits to the developer but increase the risk of novel regulatory arrangements.

9. Under the GMA, Fully Contained Communities become Urban Growth Areas. This raises the spectre of expanding FCC/UGA boundaries and population, continuing intensification of uses, and eventually incorporation. Of all the vehicles that could be used for development at Port Gamble, an FCC would pose the greatest risk to the Bay, the town site, and the rural character of North Kitsap.
10. Key components of OPG's plans at Port Gamble are within FEMA's 100-year floodplain. FEMA-insured floodplain development is the subject of recent Endangered Species Act litigation and ongoing discussions with NOAA Fisheries concerning the harm such development causes to threatened salmon. Regulations within the 100-year floodplain must be strengthened to be consistent with the most stringent federal guidance and fully supportive of salmon recovery efforts.
11. Any development that occurs in Port Gamble must be consistent with the existing National Historic Landmark designation and historic character of the town. The draft plans we have seen would bury that character under an avalanche of new construction.
12. The proposed National Historic Town designation appears less protective of natural resources and rural and historic character than the current LAMIRD designation. The NHT proposal is also inconsistent with the County's assurances, in past GMA litigation, that the LAMIRD boundaries would be permanent.
13. Early in 2010, the Port Gamble S'Klallam Tribe initiated an effort with OPG and The Trust for Public Lands to preserve the undeveloped shoreline south of Port Gamble. OPG rejected a very attractive market rate offer. Prospects for successful open space acquisition, and the Tribe's willingness to invest its energy in such efforts, would be substantially increased if OPG reconsidered this offer or made a reasonable counter-offer.
14. S'Klallam history is literally buried on land held by Pope Resources and OPG. To reclaim and perpetuate that history, our people need access to the former Mill site, the town of Port Gamble, the Port Gamble archives and other Pope and Talbot records for archeological and historical research and cultural preservation. Any development at Port Gamble needs strict regulation and monitoring to protect cultural resources and human remains. It would be an unspeakable tragedy if our ancestors at the village of Teekalet beneath Port Gamble are desecrated like at Tse-whit-zen in Port Angeles.
15. The property containing the cemetery at the northern edge of the Port Gamble S'Klallam Reservation must also be protected in perpetuity. We met with David Nunes in January 2010 and asked for a boundary agreement to ensure that County records are accurate and reflect Pope and the Tribe's intent to protect the cemetery. This has not happened yet. Protecting this cemetery is a matter of basic human dignity that should never be held hostage to other disputes.