

# Appendix A

## Compromise and Settlement Agreement

July 25, 1998  
7 yr Per. ~~20~~ July 25, 2010  
July 25, 2010

COMPROMISE AND SETTLEMENT AGREEMENT 12 yr

6-1-99 THIS COMPROMISE AND SETTLEMENT AGREEMENT ("Agreement") is made 1999, between the Cowlitz Timber Trails Association, a Washington nonprofit corporation (the "CTTA"), 1988 Spencer Road, Salkum, Washington 98582, and the State of Washington Department of Ecology ("Ecology") and Lewis County (the "County").

I. PURPOSE

This Agreement is made as a compromise between the parties for final and complete resolution of all permitting and regulatory actions between the parties involving application or enforcement of the Shoreline Management Act (the "SMA"), and the Lewis County Shoreline Master Program ("LCSMP"), including but not limited to (1) issuance to the CTTA of that certain Notice of Correction ("NOC"), dated July 25, 1997, (2) Regulatory Order No. DE98SE-S147 ("the Order") issued February 27, 1998, including review of said Order before the Shoreline Hearings Board ("SHB") in Case No. 98-013, and (3) certain issues raised before the Thurston County Superior Court, Cause No. 98-2-00694-1.

II. GENERAL PROVISIONS

This settlement between the parties includes all claims and causes of action described in SHB Case No. 98-013. The settlement does not resolve outstanding regulatory concerns between the County and the CTTA involving upland portions of the CTTA property which are not subject to regulation under the SMA or the LCSMP. However, it is the understanding of the parties that the CTTA and the County will continue to negotiate resolution of upland regulatory issues in good faith.

This settlement resolves certain allegations raised in Thurston County Cause No. 98-2-00694-1, specifically those which address or contest the authority of Ecology and the County to regulate the CTTA property, its development, uses and activities under the SMA or LCSMP, sufficiently for the parties to agree to dismissal of those portions of the action relating to the SMA and LCSMP. Unless explicitly stated herein, the parties' settlement does not resolve any other disputes, claims or causes of action.

### III. TERMS OF SETTLEMENT

In consideration of the mutual covenants set forth herein, the parties agree as follows:

A. The following improvements, uses or activities within the CTTA property are hereinafter considered nonconforming uses under WAC 173-27-080, which require no SMA or LCSMP permits or additional approvals from Ecology or the County.

1. All existing infrastructure, including roads, the boat ramp, trails, common areas, restrooms, play fields, utilities, picnic areas and community viewing platforms or decks provided such community viewing platforms or decks that exist are outside of the 25-foot setback specified in paragraph III-1.
2. Placement of a single RV parked year round at individual camping sites, for recreational uses for up to a 180-day maximum annual use limit.
3. Prior division and clearing of recreational camping lots.

B. Structures including but not limited to porches, decks and gazebos existing on July 25, 1998, except for those structures specified in paragraph III-C, are allowed to remain in place on camping sites located within the SMA jurisdictional area for the next 12 years without the need to secure any permits or approvals. If there is a change in ownership of a campsite membership which occurs more than seven years after execution of this Agreement, these structures have to be removed from the campsite at the time of sale with the exception of structures specified in paragraph III-C. If the campsite membership is sold before expiration of

the seven-year period, the purchasers have the benefit of the 12-year grandfather period. With the exception of those listed in paragraph III-C, new structures shall not be added to campsites during the grandfather period. The restrictions in this paragraph as they effect the phase out of porches or entry structures do not apply to individuals with Americans With Disabilities Act ("ADA") registrations but any entry access ramp must be limited in size and design to that necessary to serve the ADA purpose and meet Uniform Building Code requirements.

C. The following structures shall be considered legal nonconforming uses under WAC 173-27-080 and require no shoreline permits or approvals from the County or Ecology:

1. A patio or tent platform, not to exceed 12' x 12' in dimension. Tent platforms shall be elevated no higher than 18" off the ground. Patios shall be constructed of pavers, flagstones, brick or other modular materials. Patios shall not be of monolithic construction, such as poured concrete or asphalt. A campsite may contain either a patio or a tent platform, but not both.
2. A firepit, not to exceed 24" x 36" x 12" in interior ("firebox") dimensions, and having walls not to exceed 8" in thickness.
3. A storage shed, not to exceed 96 square feet in size. Storage sheds shall have no windows, heat or other accouterments of a living space.

Patios, tent platforms, firepits and storage sheds constructed during the grandfather period specified in paragraph III-B shall conform to the dimensions and characteristics described in subsections 1 through 3 above. Such "conforming" patios, tent platforms, firepits and storage sheds shall only be constructed during the grandfather period to replace similar existing structures, or on campsites which do not have that type of structure. Upon expiration of the applicable 7- or 12-year grandfather period specified in paragraph III-B, only "conforming" patios, tent platforms, firepits and storage sheds conforming to the dimensions of and characteristics described in subsections 1 through 3 above shall be allowed on campsites.

D. The County and Ecology agree to process in good faith a "Master Permit" for a common design for entry decks, gazebos, and/or trailer roofs of a "carport" design. If the County and Ecology approve the Master Permit Application, which decision to approve or deny is not a term of the parties' settlement, then CTTA members will be allowed to construct facilities which meet the requirements of the "Master Permit." In that case, the 12-year phase out period specified in paragraph III-B. infra, applies only to nonconforming structures, not to any structures which meet the "Master Permit" design. Within ninety (90) days of the date of execution of this Agreement, the CTTA will decide whether or not to file an amendment to its pending after-the-fact permit requesting a "Master Permit," which amendment will relate back to the date of filing the after-the-fact permit for purposes of the vested rights doctrine, or, at its discretion, the CTTA may at any time file with the County a new application for a "Master Permit" pursuant to local ordinance and the Local Project Permit Review Act.

E. Within one year from the date of execution of this Agreement, CTTA shall be in compliance with Lewis County on-site sewage regulations, codified as Ch. 8.40 LCC, and the Holding Tank Policies and Procedures of the Lewis County Health Officer articulating the provisions LCC 8.40.130 (Holding Tank Sewage Systems), presented to and accepted for filing by the Lewis County Board of Health. Those regulations provide:

For occupancies of sixty days or less, cumulative, during a calendar year, and in accordance with the purposes and intent of Ch. 15.25 LCC, mobile home placement compliance, individual sites may use: 1) a centralized holding tank location by means of either direct discharge from a trailer at the designated location, or direct discharge from a trailer into a portable, commercial recreational vehicle sewage receptacle, with secondary direct discharge from the receptacle at the centralized holding tank location; 2) an individual site holding tank location on the site; or 3) a public treatment facility or system. For purposes of these policies, "occupancy" shall be given that meaning associated with building code regulations, namely: the purpose for which the site is intended

to be used during any portion of any day, whether or not physically inhabited or resided upon for the entire day.

For occupancies of more than sixty days and not more than one-hundred and eighty days, cumulative, during a calendar year, and in accordance with state Department of Health and Department of Ecology rules regarding issues of residency for public health purposes, individual sites may use: 1) an individual site holding tank located on the site; or 2) a public treatment facility or system.

For occupancies of greater than one-hundred and eighty days, cumulative, during a calendar year, individual sites may use: a public treatment facility or system.

For campsite occupancies of greater than one-hundred and eighty days, any trailer or structure must be serviced by either individual or community on-site septic or waste treatment systems.

— This requirement excludes trailers or structures presently and properly serviced by approved septic or waste treatment systems.

F. Guest usage is allowed at campsites located within the SMA jurisdictional area, including use of a second RV limited to guests, only. The use of a second RV for guests cannot exceed more than 14 continuous days at a membership campsite, or exceed an aggregate amount of 21 days per year at a campsite. The normal CTTA rules effective as of July 25, 1998, for guest usage, otherwise apply.

G. For members with campsites who wish to utilize their camping privileges for more than 60 days per year, hoses connected to the community water system for potable/drinking water usage shall be restricted to potable/drinking water composition-type hoses, FDA-compliant, so intended and designed for marine or recreational vehicle use.

H. The parties agree that for a period of two years, beginning one year after execution of this Agreement, that the CTTA will maintain its existing cardlock registration system or other similar computer monitoring process, and retain the records thereof for this period. Thereafter, the CTTA may solely institute a cardlock or similar computer-monitoring

process for the remainder of the 12-year, nonconforming use period stated in III-B, and retain the records thereof, except after five years, the records may be discarded or provided to the DOE and/or the County if requested. In all such instances, and during such period, Lewis County representatives shall be entitled to examination of said records, and in addition, during these same periods Lewis County representatives shall be entitled to entry onto and about the CTTA property for inventories of site occupancies and compliance upon the County providing telephonic notification to CTTA site representatives by 9:00 a.m. for an after-1:00 p.m., same-day site inspection time. Notification shall be to the CTTA main telephone number, which at the time of this agreement rings to the CTTA security trailer.

I. The parties agree that for purposes of SMA regulation, including delineation of the SMA jurisdictional area, the OHWM of the Cowlitz River along the reach within the CTTA campground is deemed to be that line associated with a 13,500 cfs river flow. The CTTA or campsite members will remove any structures within the 25-ft. setback from the OHWM within 90 days of the effective date of this Agreement. The CTTA will place permanent markers delineating the OHWM of the Cowlitz River based upon the parties' agreement specified herein.

The markers so established will determine SMA and LCSMP regulatory requirements, including the 25-ft. setback from the OHWM, for the 12-year grandfather period set forth in section III-B above. Thereafter, the markers shall continue to determine SMA and LCSMP regulatory requirements unless the flow that equates to ordinary high water for the period including the grandfather period and all subsequent years exceeds 14,850 cfs (10% greater than the agreed 13,500 cfs), in which case the OHWM shall be redelineated by DOE and/or Lewis County, subject to appeal or other challenge by CTTA. For purposes of this section, the flow that equates with ordinary high water shall be calculated using a return interval of 1.2 years and

mean daily discharge data from the gage below Mayfield Dam (USGS 14238000), or an equivalent gage if the specified gage is no longer in operation.

J. The civil penalty and other requirements specified in the Order, including its cease and desist requirements, are vacated, the CTTA is wholly absolved from payment of any fines and penalties, and the Order and NOC are otherwise rescinded and null.

K. Promptly upon execution of this Agreement, the CTTA will dismiss its appeal filed with the Shoreline Hearings Board, Case No. 98-013, and will take steps necessary to do so, including but not limited to entering into a stipulation and order for dismissal in the form shown in Exhibit A hereto, by reference made part of this Agreement.

L. Promptly upon execution of this Agreement, the CTTA will dismiss as to Ecology and the County those allegations raised before the Thurston County Superior Court, Cause No. 98-2-00964-1 relating to enforcement or implementation of the SMA and the LCSMP only, and will take all steps necessary to do so including but not limited to entering into a stipulation and order of dismissal in the form shown as Exhibit B hereto, by reference made a part of this Agreement.

M. Unless explicitly stated otherwise herein, all member uses and activities occurring within SMA and LCSMP jurisdiction on the CTTA property may continue as presently constituted or regulated, including by the CTTA bylaws, rules or regulations effective as of the date of this Agreement or as hereafter amended or modified.

N. The undersigned representatives for Ecology, the CTTA and the County certify that they are fully authorized to enter into the terms and conditions of this Agreement.



O. In the event it should be determined than any provision of this Agreement is deemed ambiguous, the language of this Agreement shall be construed as a whole and according to its fair meaning and not strictly construed for nor against any party.

P. If any party defaults in the observance of any provision or covenant under the terms and conditions of this Agreement, the other party shall provide written notice and request a cure. Within 30 days of receipt of notice specifying any default, the party receiving notice will be obliged to cure the same, or be subject to allegation of breach of the provisions or covenants contained in the Agreement, as specified in paragraph III-Q, below. Notice to the CTTA shall be to:

For CTTA:

President  
Cowlitz Timber Trails Association  
P.O. Box 89  
1988 Spencer Road  
Salkum, WA 98582

and to: Dennis D. Reynolds  
Williams, Kastner & Gibbs PLLC  
Two Union Square  
601 Union St., Suite 4100  
P.O. Box 21926

For DOE:

Steven T. Thiele, AAG  
Attorney General Office-Ecology  
P.O. Box 40117  
Olympia, WA 98504-0117

and to:

For Lewis County:

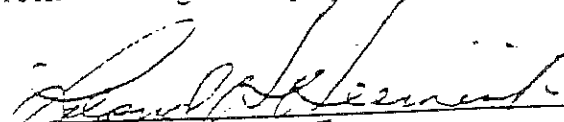
Douglas E. Jensen  
Civil Deputy Prosecutor  
MS:PRO01  
360 NW North St.  
Chehalis, WA 98532-1900

Prior written notice and request for cure shall not be required, nor legal recourse be limited to those matters discussed in Section III-Q, where Lewis County or the Department of Ecology

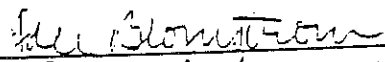
shall be seeking to protect the public health and safety from the threat of imminent injury or harm as provided for at law.

Q Any breach of the provisions or covenants contained in this Agreement shall be considered a material breach of this Agreement. In the event of such material breach, the injured party will also be entitled to injunctive relief from a court of competent jurisdiction, enjoining the party which committed the breach, or any of them, their agents, attorneys, and all others acting on their behalf, from any further activity in breach of this Agreement. Venue for any adjudication of the terms, conditions, or breach of this Agreement shall be exclusively in Thurston County, Washington.


COWLITZ TIMBER TRAILS ASSOCIATION, a nonprofit Washington corporation.

By:   
Title: PRESIDENT  
Date: 5-28-99

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

By:   
Title: Regional Supervisor  
Date: 6/9/99

LEWIS COUNTY, WASHINGTON

By:   
Title: CHIEF CIVIL LIABILITY PROSECUTOR  
Date: 6-1-99