

Resolution in Support of Culvert Replacement

1 **WHEREAS** the treaties of Medicine Creek, Neah Bay, Olympia, Point Elliott and Point No Point were
2 entered into in 1854-55 and guaranteed, to twenty Western Washington Federally Recognized Tribes,
3 that their “right of taking fish, at all usual and accustomed grounds and stations, is further secured to
4 said Indians, in common with all citizens of the territory”;

5
6 **WHEREAS** those treaties were entered into the context of territorial Governor Isaac Stevens’
7 memorable assurance that “I want that you shall not have simply food and drink now, but that you
8 may have them forever,” an intent that was upheld and applied in U.S. v. Washington (1974), a/k/a
9 “the Boldt decision”; The United States Supreme Court has already reviewed the tribal treaty rights
10 at issue in this case and has asserted them to be clear and valid (Washington v. Washington State
11 Commercial);

12
13 **WHEREAS** culverts are a primary factor to the decline of salmon populations, as stated by the
14 Division of Fish and Aquatic Conservation; “lack of access to high-quality upstream spawning and
15 rearing habitat is one of the major challenges inhibiting restoration and recovery of the region’s Coho,
16 Chum, and Chinook salmon” (Connelly and Plumb, 2016);

17
18 **WHEREAS** Washington State Tribes negotiated in good faith with WA State for decades to resolve
19 the issue before The US Government filed Washington v. U.S. on behalf of Washington State Tribes in
20 2001;

21
22 **WHEREAS** the 2016 United States Court of Appeals for the Ninth Circuit stated that “consequent
23 reduction in tribal harvests has damaged tribal economies, has left individual tribal members unable
24 to earn a living by fishing, and has caused cultural and social (and economic) harm to the Tribes”;

25
26 **WHEREAS** the 2016 United States Court of Appeals for the Ninth Circuit found in US vs Washington
27 et. all, that salmon stocks in the Case Area have declined “alarmingly” since the Treaties were signed,
28 and “dramatically” since 1985. And that “a primary cause of this decline is habitat degradation”; In
29 that 2016 decision Washington State is given an ample 17 years time to remedy the problem with
30 specific guidelines;

31
32 **WHEREAS** the 2014 Washington State Democratic Party passed 2014 SC - 122 - 140621 The
33 Resolution in Support of Culvert Replacement on June 21, 2014. And on page 41 of the 2016
34 Democratic Party’s Federal Platform on tribal affairs “We call for: Recognizing that all Treaties signed
35 under the authority of the United States, should be the supreme law of the land ... which secured
36 specific rights and privileges to sustain the future of Tribal Nations”; Taking Washington State Tribes
37 to the United States Supreme Court is not in alignment with the spirit of the 2016 Democratic
38 Platform;

39
40 **WHEREAS** both the Federal and Washington State share responsibility for the implementation of
41 poorly designed culverts, however, the State of Washington’s responsibility is primary, and
42 Washington State should act immediately and as is necessary to address the problem without further
43 litigation. As and if the state pursues federal compensation, it should not delay the implementation of
44 practices critical to salmon restoration;

45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62

THEREFORE BE IT RESOLVED that the Washington State Democratic Party continues to support the decisions in U.S. v. Washington and thus requests that the Attorney General Bob Ferguson cease pursuit of the Supreme Court appeal announced. The Attorney General’s Office should instead continue to negotiate a meaningful resolution, in good faith, with tribal representatives outside of court, informed by the directives of the Ninth Circuit, until such a resolution is achieved.

THEREFORE BE IT FURTHER RESOLVED that a copy of this resolution be sent to Attorney General Bob Ferguson, Governor Jay Inslee and all sitting Washington State House and Senate members.

Submitted by the Environment and Climate Caucus to the Washington State Democratic Central Committee for consideration at its January 28, 2018 meeting in Bellingham. (Date Submitted 1/26/18)

The Resolutions Committee reviewed the resolution and recommended that it be passed.

The Washington State Democratic Central Committee approved this resolution on 1/28/18.