

FINAL GLOBAL SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

THIS SETTLEMENT AGREEMENT AND RELEASE ("Settlement Agreement") is entered into by and between the following parties: Plaintiffs Tracy M. Miller and Linda Machia, Michael R. Harvey and Barbara Alleman, Edroy Parker and Flora Abduan, Gregory and Martha Tazioli, Susan Kowalczyk and Kay Lee, Glen and Anna Kominak, William and Miriam Sumner, Donald and Bonnie Stevens, David and Megan Rudholm, Dale and Glenda Johnson, Peter T. Bressers and Susan Albert, Pemco Insurance Company, hereinafter all referred to as the "Parker Plaintiffs", Washington State Department of Natural Resources ("DNR"), United States of America (on behalf of the United States Department of Agriculture, Forest Service), Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of Washington, Encompass Indemnity Company, and Daniel Lyon (collectively "Plaintiffs") and Defendants Okanogan County Electric Cooperative, Inc. ("OCEC"), and Public Utility District No. 1 of Douglas County ("Douglas County PUD") and Washington State Department of Fish and Wildlife ("WSFW") (collectively "Defendants"), referred to collectively herein as the "Parties."

II. RECITALS

A. On or about August 19, 2015, a forest fire occurred, known as the Twisp River Fire, in Okanogan County, Washington. This Agreement is intended to resolve all claims by all parties named herein arising out of the Twisp River Fire.

B. As a result of the Twisp River Fire, claims were made by the Plaintiff DNR against Defendant OCEC alleging responsibility for damage caused by the Twisp River Fire, which were the subject of suit in Okanogan County Superior Court, Cause No. 16-2-00456-5. Plaintiff DNR made no claims against any other party, but for purposes of effectuating a settlement of this case, Plaintiff DNR has agreed to release Douglas County PUD from any and all of DNR's claims it might have been entitled to assert in the future.

C. As a result of the Twisp River Fire, claims were made by the Parker Plaintiffs against Defendants OCEC, Douglas County PUD and WSFW, which claims were consolidated into Okanogan County Superior Court Cause No. 16-2-00456-5.

D. As a result of the Twisp River Fire, claims were made by Safeco Insurance Company of America and Liberty Insurance Corporation against Defendants OCEC, Douglas County PUD and WSFW, which claims were consolidated into Okanogan County Superior Court Cause No. 16-2-00456-5.

E. As a result of the Twisp River Fire, claims were made by the Foremost Insurance Company and Farmers Insurance Company of Washington against Defendants OCEC, Douglas County PUD and WSFW, which claims were consolidated into Okanogan County Superior Court Cause No. 16-2-00456-5.

F. As a result of the Twisp River Fire, claims were made by Encompass Indemnity Company against Defendant OCEC, which claims were consolidated into Okanogan County Superior Court Cause No. 16-2-00456-5.

G. As a result of the Twisp River Fire, claims were made by Daniel Lyon against Defendants OCEC and Douglas County PUD, which claims were consolidated into Okanogan County Superior Court Cause No. 16-2-00456-5.

H. As the United States Department of Agriculture issued a "Notice of Indebtedness to the USDA Forest Service" on or about July 24, 2019 making claim against OCEC for damages allegedly incurred as a result of the Twisp River Fire.

I. The Parties collectively have agreed to resolve all claims arising out of the Twisp River Fire.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions, terms and obligations set forth in this Settlement Agreement, the Parties agree to settle this matter as follows:

III. AGREEMENT

1. **PAYMENT.** In consideration for the Releases set forth herein and in consideration of the rights and obligations created by this Settlement Agreement, the following amounts will be paid by Defendants to Plaintiffs. Other than payments made as follows, the Parties shall bear all of their own fees, costs, and expenses of any kind and shall have no claim against one another for those fees, costs, or expenses.

(a) On behalf of its insured Defendant OCEC, American Guarantee and Liability Insurance Company ("AGLIC") agrees to pay the sum of \$15,000,000.00 as set forth below.

(b) On behalf of its insured Defendant Douglas County PUD, Chubb North American Claims agrees to pay the sum of \$500,000.00 as set forth below.

(c) Defendant WSFW agrees to pay the sum of \$250,000.00 to Plaintiffs consisting of a payment to the Parker Plaintiffs in the amount of \$100,000.00 and a payment to Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of Washington, and Encompass Indemnity Company in the amount of \$150,000.00. Payment will be made in accordance with the terms of the Stipulated Judgment as to Defendant Washington State Department of Fish and Wildlife.

(d) Payment will be made by AGLIC to DNR in the amount of \$900,000.00 in exchange for a release of all claims against Defendants OCEC and Douglas County PUD and in accordance with the Payment Instructions in paragraph 2.

(e) Payment will be made to the Parker Plaintiffs in the amount of \$6,200,000.00 in exchange for a release of all claims against Defendants OCEC, Douglas County PUD and WSWF and in accordance with the Payment Instructions in paragraph 2.

(f) Payment will be made to Daniel Lyon in the amount of \$5,000,000 in exchange for a release of all claims against Defendants OCEC, Douglas County PUD, and WSWF and in accordance with the Payment Instructions in paragraph 2.

(g) Payment will be made to Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of America, and Encompass Indemnity Company in the amount of \$2,550,000.00 in exchange for a release of all claims against Defendants OCEC, Douglas County PUD and WSWF and in accordance with the Payment Instructions in paragraph 2.

(h) Payment will be made to the United States of America (on behalf of the Department of Agriculture, Forest Service) in the amount of \$1,100,000.00 in exchange for a release of all claims against Defendants OCEC, Douglas County PUD and WSWF and in accordance with the Payment Instructions in paragraph 2. Exhibit 1 to this Agreement contains a separate settlement agreement between the United States of America and Defendants OCEC, Douglas County PUD, and WSWF, which is incorporated into this Agreement.

(i) All Parties through their counsel agree to sign orders of dismissal with prejudice regarding all pending litigations concerning the Twisp River Fire, to wit Daniel Lyon (Okanogan County Superior Court Cause No. 18-2-00235-6), the Parker Plaintiffs (Cause No. 17-2-00235-8), all subrogation claims of Safeco Insurance Company of America and Liberty Insurance Corporation (Cause No. 17-2-00253-6), all subrogation claims of Foremost Insurance Company and Farmers Insurance Company of Washington (Cause No. 17-2-00346-0), all subrogation claims of Encompass Indemnity Corporation (Cause No. 17-2-00184-0); all fire suppression claims of DNR (Cause No. 16-2-00456-5). In addition, the United States of America will release all claims for fire suppression incurred by the United States Forest Service, which are the subject of its claims against Defendant OCEC.

2. PAYMENT INSTRUCTIONS

(a) AGLIC, on behalf of Defendant OCEC, will issue a check payable to the State of Washington Department of Natural Resources in the amount of \$900,000.00).

(b) AGLIC, on behalf of Defendant OCEC, will make payment in the amount of \$1,100,000 to the United States of America either by check or electronic funds transfer pursuant to instructions to be provided by the United States Attorney's Office for the Eastern District of Washington as required and set forth in Exhibit 1 hereto.

(c) AGLIC, on behalf of Defendant OCEC, will issue a check payable to Evergreen Personal Injury Law Firm in Trust for Daniel Lyon in the amount of \$4,750,000.00.

(d) AGLIC, on behalf of Defendant OCEC, will issue a check payable to the Abeyta Nelson Trust Account for the benefit of the Parker Plaintiffs in the amount of \$5,950,000.00.

(e) AGLIC, on behalf of Defendant OCEC, will issue a check payable to the Trust Account of Cozen O'Connor in the amount of \$2,300,000.00 for the benefit of Safeco Insurance Company, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of America and Encompass Indemnity Corporation.

(f) Chubb North American Claims will issue a check made payable to the Abeyta Nelson Trust Account for the benefit of the Parker Plaintiffs in the amount of \$150,000.00.

(g) Chubb North American Claims will issue a check made payable to Evergreen Personal Injury Counsel in Trust for Daniel Lyon in the amount of \$250,000.00.

(h) Chubb North American Claims will issue a check made payable to the Cozen O'Connor Trust Account for benefit of Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of Washington and Encompass Indemnity Company in the amount of \$100,000.00.

(i) Pursuant to RCW 4.92.160, the State of Washington shall pursuant to the Stipulated Judgment entered by the trial court issue a State warrant, i.e., check, to the registry of the trial court in the amount of \$250,000.00, which will be distributed to the Parker Plaintiffs in the amount of \$100,000.00 and to Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of Washington and Encompass Indemnity Company in the amount of \$150,000.00.

(j) Payments by AGLIC and Chubb shall be issued no later than 10 business days following the receipt of this fully executed Settlement Agreement and Release as noted in Paragraph 3 below.

3. RELEASE OF CLAIMS.

(a) For the sole consideration of the sum of Nine Hundred Thousand Dollars (\$900,000.00), paid to DNR, receipt of which will be acknowledged, Plaintiff DNR hereby fully and forever waives, relinquishes, releases, and discharges Defendants, their insurers, excess insurers, employees, officers, directors, attorneys, principals, heirs, executors, administrators, successors, assigns, agents, and representatives,

from any and all past, present, or future DNR claims, demands, obligations, actions, causes of action, rights, damages, and expenses of any nature whatsoever, including but not limited to costs, losses, and expenses for fire suppression, resource losses, rehabilitation expenses, property damages or losses to DNR land, timber, structures, loss of use, and, interest, penalties, attorney fees, and costs, whether presently known or unknown, which in any way arise under, arise out of, relate to, constitute part of, or are or may be in connection with the Twisp River Fire, and the fire suppression efforts of DNR, which occurred on or about August 19, 2015, near Twisp, Okanogan County, Washington.

(b) For the sole consideration of the sum of Five Million Dollars (\$5,000,000.00), paid to Daniel Lyon, receipt of which will be acknowledged, Plaintiff Daniel Lyon hereby fully and forever waives, relinquishes, releases, and discharges Defendants, their insurers, excess insurers, employees, officers, directors, attorneys, principals, heirs, executors, administrators, successors, assigns, agents, and representatives, from any and all past, present, or future claims, demands, obligations, actions, causes of action, rights, damages, and expenses of any nature whatsoever, including claims for personal injury, emotional distress, mental anguish, economic losses, rehabilitation expenses, lost wages, debts, loss of use, and, interest, penalties, attorney fees, and costs, whether presently known or unknown, which in any way arise under, arise out of, relate to, constitute part of, or are or may be in connection with the Twisp River Fire, which occurred on or about August 19, 2015, near Twisp, Okanogan County, Washington.

Daniel Lyon hereby declares and represents that the injuries he sustained may be permanent and progressive and that recovery therefrom is uncertain and indefinite, and in making this Release and Settlement, it is understood and agreed that he relies wholly upon his own judgment, belief, and knowledge of the nature, extent, and duration of said injuries, and that he has not been influenced to any extent whatsoever in making this Release and Settlement Agreement by any representations or statements regarding said injuries, or regarding any other matters not contained herein, made by Defendants, or by any person representing Defendants, or by any physician or surgeon retained by them.

As part of the consideration of the agreed settlement, Daniel Lyon hereby guarantees payment of all lawful, lienable, medical, prescription, or hospital bills now owed by or on his behalf by reason of the incident upon which the above-mentioned legal action is based; and further agrees to defend, indemnify, and hold harmless Defendants and their respective agents, employees, assigns, successors, and/or representatives, from all such claims and accounts. Daniel Lyon further agrees to defend them, hold them harmless, and to indemnify them from the claims of any person, companies, associations, or departments of government (including the United States Department of Labor) which has paid, or which shall pay wage loss, medical bills, prescription drug expenses, hospital bills, or bills of other health care practitioners and which have become or may become subrogated to the rights of Daniel Lyon.

(c) For the sole consideration of the sum of One Million One Hundred Thousand Dollars (\$1,100,000.00), paid to the United States of America (on behalf of the United States Department of Agriculture, Forest Service), receipt of which will be acknowledged, the United States hereby fully and forever waives, relinquishes, releases, and discharges Defendants, their insurers, excess insurers, employees, officers, directors, attorneys, principals, heirs, executors, administrators, successors, assigns, agents, and representatives, from any and all past, present, or future claims, demands, obligations, actions, causes of action, rights, damages, and expenses of any nature whatsoever, including but not limited to costs, losses, and expenses for fire suppression, resource losses, rehabilitation expenses, property damages or losses to Forest Service land, timber, structures, loss of use, fire suppression costs, and, interest, penalties, attorney fees, and costs, whether presently known or unknown, which in any way arise under, arise out of, relate to, constitute part of, or are or may be in connection with the Twisp River Fire, and the fire suppression efforts of Forest Service, which occurred on or about August 19, 2015, near Twisp, Okanogan County, Washington.

(d) For the sole consideration of the sum of \$2,550,000.00 paid to Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of America, and Encompass Indemnity Company, receipt of which will be acknowledged, Plaintiffs Safeco Insurance Company of America, Liberty Insurance Corporation, Foremost Insurance Company, Farmers Insurance Company of America, and Encompass Indemnity Company, hereby fully and forever waive, relinquish, release, and discharge Defendants, their insurers, excess insurers, employees, officers, directors, attorneys, principals, heirs, executors, administrators, successors, assigns, agents, and representatives, from any and all past, present, or future claims, demands, obligations, actions, causes of action, rights, damages, and expenses of any nature whatsoever, including but not limited to costs, losses, and expenses for fire suppression, resource losses, rehabilitation expenses, property damages, timber, structures, loss of use, and, interest, penalties, attorney fees, and costs, whether presently known or unknown, which in any way arise under, arise out of, relate to, constitute part of, or are or may be in connection with the Twisp River Fire, which occurred on or about August 19, 2015, near Twisp, Okanogan County, Washington.

(e) For the sole consideration of the sum of \$6,200,000.00 paid to the Parker Plaintiffs, receipt of which will be acknowledged, the Parker Plaintiffs hereby fully and forever waive, relinquish, release, and discharge Defendants, their insurers, excess insurers, employees, officers, directors, attorneys, principals, heirs, executors, administrators, successors, assigns, agents, and representatives, from any and all past, present, or future claims, demands, obligations, actions, causes of action, rights, damages, and expenses of any nature whatsoever, including but not limited to costs, personal injury, emotional distress, resource losses, rehabilitation expenses, property damages, timber loss, diminution of value, loss or damage to structures, fences, loss of use, income loss, and, interest, penalties, attorney fees, and costs, whether presently known or unknown, which in any way arise under,

arise out of, relate to, constitute part of, or are or may be in connection with the Twisp River Fire, which occurred on or about August 19, 2015, near Twisp, Okanogan County, Washington.

4. DENIAL OF LIABILITY. This Settlement Agreement expresses the full and complete settlement of all claims. Liability for such claims is expressly denied and disputed by Defendants. Regardless of the adequacy of the above consideration, the acceptance of this Release shall not operate or be construed as an admission of either fact or law on the part of Defendants. The parties hereto recognize this Settlement Agreement is being made for the sole benefit of the Parties hereto to avoid the delay, uncertainty, inconvenience and expense of litigation, under the sound policy of law favoring the settlement of claims before litigation. This Settlement Agreement is entered into solely for the purposes of compromise and shall not operate or be construed as an admission or evidence of any wrongdoing, fault, omission or liability of Defendants arising out of, caused by, incurred in connection with or in any way pertaining to the Twisp River Fire.

5. GOOD FAITH AND COOPERATION. The Parties agree that the settlement embodied in this Settlement Agreement is made in good faith, is the subject of arm's length negotiations, and the consideration supporting the Settlement Agreement is sufficient, fair and appropriate.

6. STIPULATED ORDER OF DISMISSAL WITH PREJUDICE. Plaintiffs agree to cooperate with Defendants to ensure that all of Plaintiffs' claims asserted in Okanogan Superior Court Cause Nos. 16-2-00456-5, 17-2-00184-0, 17-2-00235-8, 17-2-00253-6, 17-2-00346-0, and 18-2-00235-6 are dismissed with prejudice upon receipt of payment as required in Section III(1) of this Settlement Agreement, which may include executing any additional documents or taking additional actions necessary to effectuate the purposes of this Settlement Agreement.

7. BINDING EFFECT. The terms of this Settlement Agreement are binding upon the heirs, representatives, successors and assigns of the undersigned Parties.

8. ENTIRE AGREEMENT. This Settlement Agreement represents and contains the entire understanding of the Parties. There are no representations, covenants, or undertakings other than those expressly set forth in this Settlement Agreement. The Parties acknowledge that none of the Parties, or any agent or attorney of any of the Parties have made any promise, representation or warranty whatsoever, express or implied, not contained in this Settlement Agreement to induce any of the Parties to execute this Settlement Agreement. The Parties, and each of them, acknowledge that they have not executed this Settlement Agreement in reliance on any promise, representation or warranty not specifically contained in this Settlement Agreement. Each of the Parties further represents and declares that they, acting through their representatives, have carefully read this Settlement Agreement and know its contents and have signed this Settlement Agreement freely and voluntarily.

9. PREPARATION OF AGREEMENT. This Settlement Agreement is the product of negotiation and preparation by and among the Parties and their respective attorneys. This Settlement Agreement shall not be deemed prepared or drafted by one party or another, or its attorneys and will be construed accordingly.

10. AUTHORITY TO EXECUTE. Each signatory hereto warrants and represents that he or she is competent and authorized to enter into this Settlement Agreement on behalf of the Party for whom he or she signs and has the authority to bind the Party for whom he or she signs, specifically including the hold harmless and indemnity obligations contained in this Settlement Agreement.

11. SUBROGATED LIEN CLAIMS. Each Plaintiff warrants that no other person or entity has or has had any interest in the claims or causes of action referred to in this Settlement Agreement and that each undersigned Plaintiff separately has the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified herein. Each separate Plaintiff shall defend and indemnify Defendants against claims by any other person claiming to have an interest in the claims and payments described in this Settlement Agreement. Each of the Plaintiffs further represent, to the best of their knowledge, there are no lien claims or subrogation claims or interests related to the Plaintiffs' claims arising out of the Twisp River Fire, beyond the subrogation claims that are being presently made by the Insurer plaintiffs and are part of this Settlement Agreement.

12. PAYMENTS TO TRUST FUNDS. Plaintiffs understand that Defendants have agreed to pay the sums referenced in paragraph 2 of this Settlement Agreement, in full and final payment of all claims or potential claims against Defendants, pursuant to specific authorization from the Plaintiffs to their counsel and pursuant to instructions from their counsel to Defendants.

13. SEVERABILITY. If any provision of this Settlement Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Settlement Agreement shall continue in full force and effect and shall in no way be impaired or invalidated and the Parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and effect of the invalid or unenforceable provision.

14. COUNTERPARTS AND EXECUTION BY FACSIMILE. This Settlement Agreement may be executed in separate counterparts that together shall form one binding Settlement Agreement. The Parties agree that facsimile or scanned signatures shall suffice and be binding on them with respect to the execution of this Settlement Agreement.

15. GOVERNING LAW. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any disputes arise regarding the interpretation or enforcement of this Settlement Agreement, as any Party's sole remedy, those disputes shall be submitted to Bruce Heller (who served as Mediator in this case) for binding arbitration. The Arbitrator's decision shall be final with no right of appeal. In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to reimbursement of costs and attorneys' fees incurred therein.

16. NO PRECEDENTIAL VALUE. The Parties agree that the settlement reflected in this Settlement Agreement is without precedential value and it is not intended to be, nor may it or any terms hereof be, referenced in any other proceeding or dispute.

DATED this 25th day of March, 2020.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Hilary S. Franz

Title: Commissioner of Public Lands

OKANOGAN COUNTY ELECTRIC
COOPERATIVE, INC.

By: _____

Name: A. Grant Lugg

Title: Attorney for OCEC

PUBLIC UTILITY DISTRICT NO. 1 OF
DOUGLAS COUNTY

By: _____

Name: Gary R. Ivory

Title: General Manager

PARKER PLAINTIFFS

By: _____

Name: Rodney K. Nelson, WSBA #9587,

ABEYTA NELSON P.C.

Title: Attorney for Parker Plaintiffs

DATED this ____ day of March, 2020.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Hilary S. Franz

Title: Commissioner of Public Lands

OKANOGAN COUNTY ELECTRIC
COOPERATIVE, INC.

By: _____

Name: _____

Title: _____

PUBLIC UTILITY DISTRICT NO. 1 OF
DOUGLAS COUNTY

By: _____

Name: _____

Title: _____

PARKER PLAINTIFFS

By: _____

Name: Rodney K. Nelson, WSBA #9587,
ABEYTA NELSON P.C.

Title: Attorney for Parker Plaintiffs

UNITED STATES OF AMERICA

By: See Exhibit 1 Attached JEG
He

Name: Joseph P. Derrig, WSBA #44394

Title: Attorney for United States of America

DEFENDANT STATE OF WASHINGTON
DEPARTMENT OF FISH & WILDLIFE

By: 

Name: Jennifer D. Loynd, WSBA #49448 ³³¹²⁹

Title: Attorney General of Washington

SAFECO INSURANCE COMPANY OF
AMERICA AND LIBERTY INSURANCE
CORPORATION

By: _____

Name: Bryan R. Campell, WSBA #36510

Title: Attorney, Cozen O'Connor

DEFENDANT OKANOGAN COUNTY
ELECTRIC COOPERATIVE, INC.

By: 

Name: A. Grant Lingg, WSBA #24227,

Scott A. Samuelson, WSBA #23363

Title: Attorneys, Forsberg & Umlauf, P.S.

UNITED STATES OF AMERICA

By: _____

Name: Joseph P. Derrig, WSBA #44394
Title: Attorney for United States of America

DEFENDANT STATE OF WASHINGTON
DEPARTMENT OF FISH & WILDLIFE

By: _____

Name: Jennifer D. Loynd, WSBA #49448
Title: Attorney General of Washington

SAFECO INSURANCE COMPANY OF
AMERICA AND LIBERTY INSURANCE
CORPORATION

By:  _____

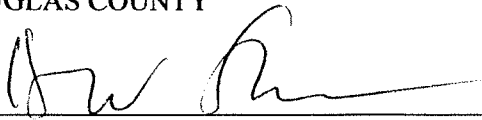
Name: Bryan R. Campell, WSBA #36510
Title: Attorney, Cozen O'Connor

DEFENDANT OKANOGAN COUNTY
ELECTRIC COOPERATIVE, INC.

By: _____

Name: A. Grant Lingg, WSBA #24227,
Scott A. Samuelson, WSBA #23363
Title: Attorneys, Forsberg & Umlauf, P.S.

DEFENDANT PUBLIC UTILITY DISTRICT 1
OF DOUGLAS COUNTY

By: 

Name: Daniel W. Short, WSBA #7945

Title: Attorney, Paine Hamblen, LLP

PLAINTIFF STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Paul F. James, WSBA #13525

Title: Attorney for Plaintiff

PLAINTIFF ENCOMPASS INDEMNITY
COMPANY

By: _____

Name: George M. Shumsky, WSBA

#33915, Eric C. Hanson WSBA #26479

Title: Attorneys, Shumsky & Backman

PLAINTIFFS FOREMOST INSURANCE
COMPANY AND FARMERS INSURANCE
COMPANY

By: _____

Name: Craig E. Evezich, WSBA #20957

Title: Attorney, Evezich Law Offices, PLLC

DEFENDANT PUBLIC UTILITY DISTRICT 1
OF DOUGLAS COUNTY

By: _____

Name: Daniel W. Short, WSBA #7945
Title: Attorney, Paine Hamblen, LLP

PLAINTIFF STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Paul F. James, WSBA #13525
Title: Attorney for Plaintiff

PLAINTIFF ENCOMPASS INDEMNITY
COMPANY

By: _____

Name: George M. Shumsky, WSBA
#33915, Eric C. Hanson WSBA #26479
Title: Attorneys, Shumsky & Backman

PLAINTIFFS FOREMOST INSURANCE
COMPANY AND FARMERS INSURANCE
COMPANY

By: _____

Name: Craig E. Evezich, WSBA #20957
Title: Attorney, Evezich Law Offices, PLLC

DEFENDANT PUBLIC UTILITY DISTRICT 1
OF DOUGLAS COUNTY

By: _____

Name: Daniel W. Short, WSBA #7945

Title: Attorney, Paine Hamblen, LLP

PLAINTIFF STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Paul F. James, WSBA #13525

Title: Attorney for Plaintiff

PLAINTIFF ENCOMPASS INDEMNITY
COMPANY

By:  _____ as attorney for

Name: George M. Shumsky, WSBA

#33915, Eric C. Hanson WSBA #26479

Title: Attorneys, Shumsky & Backman

PLAINTIFFS FOREMOST INSURANCE
COMPANY AND FARMERS INSURANCE
COMPANY

By: _____

Name: Craig E. Evezich, WSBA #20957

Title: Attorney, Evezich Law Offices, PLLC

DEFENDANT PUBLIC UTILITY DISTRICT 1
OF DOUGLAS COUNTY

By: _____

Name: Daniel W. Short, WSBA #7945
Title: Attorney, Paine Hamblen, LLP

PLAINTIFF STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By: _____

Name: Paul F. James, WSBA #13525
Title: Attorney for Plaintiff

PLAINTIFF ENCOMPASS INDEMNITY
COMPANY

By: _____

Name: George M. Shumsky, WSBA
#33915, Eric C. Hanson WSBA #26479
Title: Attorneys, Shumsky & Backman

PLAINTIFFS FOREMOST INSURANCE
COMPANY AND FARMERS INSURANCE
COMPANY

By:  _____
Anne Brito, Subrogation General Adjuster

Name: Craig E. Evezich, WSBA #20957
Title: Attorney, Evezich Law Offices, PLLC

PLAINTIFF DANIEL LYON

3y: Daniel Lyon
DANIEL LYON

PLAINTIFF DANIEL LYON

3y: [Signature]
Name: Stephen L. Bulzomi, WSBA #15187,
James W. McCormick, WSBA #32896
Title: Attorneys, Evergreen Personal
Injury Counsel

FINAL GLOBAL SETTLEMENT AGREEMENT AND RELEASE - 12

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EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement is entered into by and among the United States of America, acting through the United States Attorney's Office for the Eastern District of Washington, on behalf of the United States Department of Agriculture, United States Forest Service ("United States"), and Okanogan County Electric Cooperative, Inc., (OCEC), Public Utility District No. 1 of Douglas County ("Douglas County PUD"), and the State of Washington Department of Fish & Wildlife ("WFW") (collectively the "Parties").

II. RECITALS

1. **WHEREAS**, On August 19, 2015, a fire known as the Twisp River Fire ignited. The United States Forest Service ("USFS") expended resources to suppress the Twisp River Fire, which ultimately burned approximately 11,200 acres, claimed the lives of three USFS firefighters,¹ and badly injured another (Mr. Daniel Lyon).

2. **WHEREAS**, The United States contends that the Twisp River Fire ignited due to contact between a tree branch and OCEC's electrical distribution line. The United States further contends OCEC's failed to maintain a vegetation management plan, and failed to detect and prevent the tree branch from contacting the distribution line that caused ignition for the Twisp River Fire. Accordingly, the United States contends the negligent acts and/or omissions of OCEC proximately caused the fire and damages to the United States.

3. **WHEREAS**, OCEC is involved in pending litigation in Okanogan County Superior Court concerning the Twisp River Fire with various other parties, to wit Daniel Lyon (18-2-000235-6), all of the Parker plaintiffs (17-2-00235-8), all subrogation claims of Safeco Insurance Company, Liberty Mutual Insurance Corporation (17-2-00253-6), Encompass Indemnity Company (17-2-00184-0), Foremost Insurance Company (17-2-00346-0), and the Department of Natural Resources of the State of Washington (16-2-00456-5) (Collectively "Okanogan County Litigation").

4. **WHEREAS**, The United States agreed to participate in a Joint Policy Limits Demand to OCEC and its insurer(s) to resolve the United States Forest Services' claims for

¹ These estates of these brave firefighters, Messrs. Richard Wheeler, Andrew Zajac, and Tom Zbyszewski, were not litigants.

suppression costs, alongside resolution of claims by all plaintiffs against all defendants in the Okanogan County Litigation, provided the United States obtained a specific dollar amount of proceeds from the Joint Policy Limits Demand. The United States' Settlement Amount as provided herein is pursuant to a negotiated agreement reached with OCEC and its insurer(s) based on the limited funds remaining on OCEC's collective insurance policies.

5. **WHEREAS**, In the Okanogan County Litigation, the Public Utility District No. 1 of Douglas County ("Douglas County PUD") and the State of Washington Department of Fish & Wildlife ("WFW") were named as Defendants by one of the plaintiffs and as part of the global settlement the United States was also required to release claims, if any, arising from fire suppression efforts of the United States Department of Agriculture, United States Forest Service, against Douglas County PUD and WFW.

6. **WHEREAS**, This Settlement Agreement is not an admission of any negligence, wrongful conduct or liability by OCEC, or a concession by the United States that its contentions are not well founded.

7. **WHEREAS**, To avoid further delay, inconvenience, the cost and expense of litigation, and the uncertainty of litigation outcomes, the Parties mutually desire to reach a full and final settlement of this matter and all of their claims pursuant to the Terms and Conditions set forth below.

NOW, THEREFORE, In consideration of the mutual promises, covenants, conditions, terms, and obligations set forth in this Settlement Agreement, the Parties agree to settle this matter as follows:

III. TERMS AND CONDITIONS

1. In consideration of the obligations of the Parties set forth in this Settlement Agreement, OCEC, through its insurers, agrees to pay the total sum of One Million One Hundred Thousand dollars (\$1,100,000) to the United States ("Settlement Amount"). OCEC, through its insurers, shall pay the \$1,100,000 to the United States by electronic funds transfer (EFT), pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of Washington, within twenty (20) days of the Effective Date of this Agreement as defined below.

2. Subject to the exceptions in Paragraph 3 below concerning excluded claims, in consideration of the obligations of the Parties to this Settlement Agreement, and conditioned upon the full payment of the Settlement Amount by OCEC, through its insurers, excess insurers, or reinsurers (collectively “insurers”), the United States (on behalf of itself, its officers, agents,² agencies, and departments) hereby fully and finally releases OCEC, Douglas County PUD and WFW and their respective current and former officers, directors, members, partners, agents, attorneys, insurers, employees, shareholders, parent corporations, direct and indirect subsidiaries, divisions, affiliates, predecessors, successors and assigns, and any of them from any and all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, interest, penalties, and expenses, including any claims for compensatory damages, statutory damages, multiplied damages or punitive damages, which the United States Department of Agriculture, U.S. Forest Service, has or may have arising from the fire suppression efforts the Agency expended to help suppress the Twisp River Fire (2015).

3. Notwithstanding any term of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person, including OCEC, are the following potential claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, United States Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any claim by the United States (or its agencies) not arising out of the fire suppression efforts of the United States Department of Agriculture, United States Forest Service.
- d. Any liability based upon such obligations as are created by this settlement agreement.

4. In consideration of the obligations of the United States set forth in this Settlement Agreement, OCEC, Douglas County PUD, and WFW (on behalf of itself, its officers, agents, agencies, departments, employees, partners, insurers and subsidiaries) hereby fully and finally release the United States and its employees, servants, agents, agencies, and departments from any and all liability for any claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, interest, and expenses, including any claims for compensatory or punitive damages, which the OCEC, Douglas County PUD, and WFW has or may have with respect to the

² The Parties expressly acknowledge that this settlement agreement and release does not release or settle any claims brought by Daniel Lyon, which the Parties understand are covered under a separate settlement agreement and release.

fire suppression efforts of the United States Department of Agriculture, United States Forest Service, including without limitation the United States' investigation of the cause of the Twisp River Fire and its pursuit of claims.

5. The Parties warrant and represent that they freely and voluntarily enter into this Settlement Agreement without any degree of duress or compulsion whatsoever, after having been apprised of all relevant information and data by their investigators, employees, and/or legal counsel. Each of the Parties further warrants and represents that no other Party or its representative has made any promise, representation or warranty, express or implied, except as expressly set forth in this Settlement Agreement, and that no Party has relied on any inducements, promises, or representations made by any other Party to this Settlement Agreement, or its representatives, or any other person, except as expressly set forth herein.

6. Each Party to this Settlement Agreement shall bear its own costs, attorneys' fees, and other expenses incurred in any manner in connection with the investigation, litigation, and resolution of this matter, including the preparation and performance of this Settlement Agreement.

7. This Settlement Agreement is intended to be for the sole benefit of the Parties only. The Parties do not release any claims against any other person or entity not expressly released by this Settlement Agreement.

8. Each individual signing this Settlement Agreement represents and warrants that he or she has the power, consent, and authorization of the Party on whose behalf he or she is signing to execute this Settlement Agreement.

9. Nothing in this Settlement Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of Title 26, United States Code (Internal Revenue Code).

10. Each Party warrants that it has been represented by and has sought and obtained the advice of independent legal counsel with regard to the nature, purpose and effect of this Settlement Agreement. The Settlement Agreement was negotiated by the Parties and their respective counsel, each of whom had the opportunity to participate in the drafting thereof. The Parties hereby declare that the terms of this Settlement Agreement have been completely read, fully understood, and voluntarily accepted following opportunity for review by legal counsel of their choice.

11. This Settlement Agreement is binding on OCEC, its successors in interest, transferees, and assigns.

12. For purposes of construction, this Settlement Agreement shall be deemed to have been drafted by all Parties to this Settlement Agreement. The words of this Settlement Agreement shall not, therefore, be construed against any Party in any subsequent dispute, rather, they shall be construed so as to give effect to their fair meaning,

13. This Settlement Agreement and the terms of the settlement are not confidential. The Parties consent to the public disclosure of this Settlement Agreement and of information about the Action and this Settlement Agreement.

14. This Settlement Agreement constitutes the complete agreement between the Parties, and supersedes and replaces all prior negotiations and agreements, whether written or oral, regarding the resolution of the claims between the Parties with respect to the subject matter hereof.

15. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which taken together shall constitute one valid and binding Settlement Agreement between the Parties.

16. This Settlement Agreement may not be altered, amended, or modified, except by a writing duly executed by authorized representatives of all Parties.

17. This Settlement Agreement is governed by the laws of the United States. The Parties agree that, should any judicial action be required to enforce or interpret this Settlement Agreement, or to resolve any dispute(s) hereunder, the exclusive jurisdiction and venue for such action shall be in the United States District Court for the Eastern District of Washington.

18. This Settlement Agreement is effective, final, and binding as of the date of signature of the last signatory to the Settlement Agreement ("Effective Date"). Transmittal and receipt of facsimiles or PDF versions of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

19. All Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement.

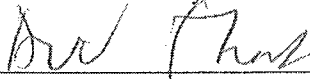
Okanogan County Electric Cooperative, Inc.

Forsberg & Umlauf, P.S.
Attorneys for Okanogan County Electric Cooperative, Inc.

By: _____ Date: _____
A. Grant Lingg, WSBA 24227
Scott A. Samuelson, WSBA 23363

Public Utility District 1 of Douglas County

Paine Hamblen, LLP
Attorneys for Public Utility District 1 of Douglas County

By:  Date: 2/26/20
Daniel W. Short, WSBA 7945

State of Washington Department of Fish & Wildlife

Attorney General of Washington
Attorneys for State of Washington, Department of Fish & Wildlife

By: _____ Date: _____
Jennifer D. Loynd, WSBA 49448

United States of America

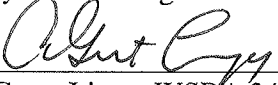
United States Department of Agriculture, United States Forest Service

William D. Hyslop
United States Attorney

By: _____ Date: _____
Joseph P. Derrig
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By: 
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Date: 3/25/20

Public Utility District 1 of Douglas County

Paine Hamblen, LLP
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By: _____
Daniel W. Short, WSBA 7945

Date: _____

State of Washington Department of Fish & Wildlife

Attorney General of Washington
Attorneys for State of Washington, Department of Fish & Wildlife

By: 
Jennifer D. Loynd, WSBA 49448
3/3/20

Date: 3 March 2020

United States of America

United States Department of Agriculture, United States Forest Service

William D. Hyslop
United States Attorney

By: _____
Joseph P. Derrig
Assistant United States Attorney

Date: _____

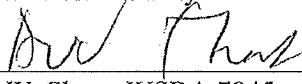
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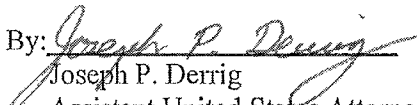
Attorney General of Washington
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United States of America

United States Department of Agriculture, United States Forest Service

William D. Hyslop
United States Attorney

By:  Date: 3/6/20
Joseph P. Derrig
Assistant United States Attorney