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INTERAGENCY AGREEMENT

REVIEW OFFICE

Pursuant to the authority of Chapter 39.34, RCW, and Colville Council Resolution No. 1989-459, this Agreement is made by the Department of Labor and Industries (hereinafter called the "Department"), General Administration Building, Olympia, Washington, 98504, and the Confederated Tribes of the Colville Reservation (hereinafter called "Tribes"), P.O. Box 150, Nespelem, Washington, 99155.

1.0 Purpose.

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1.1 The parties to this Agreement find that personal injuries and illness arising out of conditions of employment impose a substantial burden upon employers and employees in terms of lost production, wage loss, medical expenses, and payment of benefits under the industrial insurance act and the tribal self-insured worker's compensation program.

1.2 In order to assure, insofar as may reasonably be possible, safe and healthful working conditions for every man and woman working on the Colville Reservation, the parties to this Agreement declare their purpose to create, maintain, continue, and enhance the industrial safety and health program on the Reservation, which program shall equal or exceed the standards prescribed by the Washington Industrial Safety and Health Act.

1.3 The parties also declare their purpose to develop the technical expertise within the Tribes to enable them to maintain, continue and enhance an industrial safety and health program which equals or exceeds the standards prescribed by the Washington Industrial Safety and Health Act.

1.4 The parties also declare their purpose to apply the industrial safety and health program to all persons uniformly throughout the Reservation.

1.5 This Agreement shall not be considered or construed to grant or cede any jurisdiction to the State of Washington or any other governmental entity by the Tribes, or to grant or cede any jurisdiction to the Tribes or any other governmental entity by the State of Washington, for the substantive purposes set out in the Agreement or for any other purpose. This Agreement shall not be considered or construed to be a recognition by the Tribes of the State's jurisdiction on the Colville Reservation and shall not be construed to be a recognition by the State of any Tribal jurisdiction on the Colville Reservation.

2.0 Definitions.

2.1 Indian employers shall be defined as:

a. All Tribal entities, agencies, enterprises, governmental corporations, departments, contract offices, schools, districts and other tribally managed organizations, or

b. All businesses operating within the Reservation which are at least 51% owned by enrolled Indians or whose voting stock is at least 51% owned by enrolled Indians and in whose management enrolled Indians take an active roll.

2.2 A catastrophe shall be defined as an employment accident which results in the hospitalization of two or more employees.

3.0 Accident Prevention Program. The Tribes shall adopt a formal, written and enforceable industrial health and safety code and accident prevention program which equals or exceeds the standards that are prescribed by the Washington Industrial Safety and Health Act.

4.0 Posting Requirements. All industrial safety and health notices posted in work places on the Reservation shall contain the name and address of both the Department and the Tribal offices responsible for the administration of this Agreement.

5.0 Inspections. In carrying out their duties under this Agreement, inspectors shall have immediate access to the work place subject to inspection and inspections shall be performed without giving advance notice to the persons in charge of the work place.

5.1 The Department will have primary responsibility to inspect the work places of non-Indian employers on the Reservation. The Department will have the exclusive authority to inspect the work places of municipal employers on the Reservation; municipal employers shall include every city, county, town, district or other public agency thereof authorized by Washington law.

5.2 The Tribes will have primary responsibility to inspect the work places of the Indian employers on the Reservation.

5.3 In addition to the inspection responsibilities of the Department and the Tribes set forth in Sec. 5.1 and 5.2, joint inspections by an inspection team comprised of

Department and Tribal inspections shall be performed under the following circumstances:

a. When the Department receives a written complaint against the safety and health conditions of an Indian work place. Copies of all such complaints as well as the inspection results will be provided to the Joint Committee.

b. In the case of a fatality or catastrophe on an Indian work place in which case the inspection results will be provided to the Joint Committee.

c. When the Department and the Tribes agree that an inspection be performed jointly in which case the inspection results will be provided to the Joint Committee.

6.0 Citations.

6.1 A Department inspector, Tribal inspector or a joint inspection team shall issue citations and assess civil penalties, abatement orders, etc.; and citations issued for serious and repeated and willful violations shall subject the employer to a civil penalty. Indian employers shall be cited under Tribal law only.

6.2 Civil penalties arising out of citations will be paid to the director of the Department pursuant to RCW 47.17.180 (8) or to the Colville Tribal Court pursuant to Tribal law.

6.3 Copies of all citations issued on the Reservation will be provided to the Joint Committee.

7.0 Appeals. Departmental citations shall be appealed to the Board of Industrial Insurance Appeals and to the state courts, and may be reassumed by the Department pursuant to RCW 49.17.140 and 150. Tribal citations shall be appealed to the Colville Tribal Court pursuant to Tribal law.

8.0 Technical Assistance.

8.1 The Department will provide an industrial safety and health Consultant to the Joint Committee for the purpose of providing technical direction to the Joint Committee.

8.2 A comprehensive industrial safety and health plan which includes a training program designed to enhance the technical expertise of the Tribal inspectors and Tribal employers will be developed by the Joint Committee.

8.3 The Department will provide a stated number of hours of training and consultation to assist in the implementation of the training plan developed by the Joint Committee.

9.0 OSHA. Representatives of the Occupational Safety and Health Administration will be ex officio members of the Joint Committee.

10.0 Joint Committee - Purpose & Composition.

10.1 The primary purpose of the Joint Committee will be to provide an avenue of communication between the Department and the Tribes; to develop operating procedures for the industrial safety and health plan on the Reservation according to the guidelines of this Agreement; and to provide long range planning to achieve the Tribal goal of primary responsibility for the industrial safety and health of all workers on the Reservation.

10.2 The Joint Committee shall be composed of six members, three of whom shall be designated by the Department within 30 days of the effective date of this Agreement. For the purpose of conducting business, a quorum of the Joint Committee shall consist of four members.

10.3 The initial chairperson of the Joint Committee shall be designated by the Department and shall serve in that capacity for two years; thereafter, the chairperson shall be selected by vote of the Joint Committee. The initial vice-chairperson of the Joint Committee shall be designated by the Tribes and shall serve in that capacity for two years; thereafter the vice-chairperson shall be selected by the Joint Committee.

11.0 Joint Committee - Responsibilities.

11.1 The primary initial responsibility of the Joint Committee will be to develop a comprehensive industrial safety and health plan for the Reservation. In fulfilling that responsibility the Joint Committee, with the advice and technical direction of the Department Consultant assigned to the Joint Committee, will develop:

- a. A formal, written industrial health and safety code and accident prevention program which equals or exceeds the standards that are prescribed by the Washington Industrial Safety and Health Act.

b. A set of criteria by which the Tribal code and accident prevention program and its implementation and operation can be evaluated by the parties to this agreement.

11.2 The implementation and operation of the Tribal industrial health and safety code and industrial safety and health plan on the Reservation will be evaluated over a three year period by the parties to this Agreement; and the parties will give additional direction to the Joint Committee as necessary during the evaluation period.

11.3 The Joint Committee shall develop training plans for all Tribal inspectors and shall require that all Indian employers develop accident prevention programs that comply with the safety and health code implemented by the Tribes. The Joint Committee shall accept technical direction from the Department Consultant assigned to the Joint Committee in the fulfillment of these responsibilities.

11.4 The Joint Committee will maintain records of all inspections that are performed on the Reservation, citations that are issued and penalties assessed, and records of training plans for all Tribal inspectors and Tribal employers.

11.5 The Joint Committee will entertain requests for variances from Indian employers and will recommend that the Tribes either grant or deny those requests.

11.6 The Joint Committee shall, from time to time, make recommendations to the parties for amendments to this Agreement.

12.0 Effective Date and Termination.

12.1 This Agreement shall become effective upon execution by all the parties and shall continue in effect until termination is made according to the provisions below. This agreement shall not be modified or changed except by written amendment executed by the parties.

12.2 A party seeking termination of this Agreement shall submit notice of intent to terminate and the reasons therefore to the Joint Committee.

12.3 Within 30 days of receiving a notice of intent to terminate, the Joint Committee shall hold a meeting for the purpose of resolving the conflict and avoiding the termination.

12.4 If the Joint Committee is unable to achieve a resolution of the conflict, the Joint Committee shall give written notice to the Department and the Tribes of that fact. The terminating party may complete the termination of this Agreement 30 days after that notification.

This Agreement, consisting of six pages is executed by the persons signing below who warrant that they have the authority to execute this Agreement.

Department of
Labor and Industries

Confederated Tribes of the
Colville Reservation

By: Joseph A. Dear
Joseph A. Dear, Director

By: Jude C. Stensgar
Jude C. Stensgar, Chairman
Colville Business Council

Date: Nov 17, 1989

Date: Nov 17, 1989

Approved as to Form:

By: Ken MacIntosh
Ken MacIntosh,
Senior Assistant Attorney General

By: Michael Taylor
Michael Taylor,
Reservation Attorney

Date: Nov 17, 1989

Date: Nov 17, 1989