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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

COOS WATERKEEPER, and OREGON  
SHORES CONSERVATION COALITION,  
an Oregon non-profit corporation,

Plaintiff,

OREGON DEPARTMENT OF  
ENVIRONMENTAL QUALITY,

Intervenor-Plaintiff,

MICHAEL MARTIN AND LEIGH MARTIN,

Intervenor-Plaintiffs,

v.

JOHNSON ROCK PRODUCTS, INC., an  
Oregon corporation, MIKAEL GLENN  
LINDH and MALATI LINDH,

Defendants.

Case No. 6:13-CV-00933-MC

PLAINTIFF-INTERVENOR OREGON  
DEPARTMENT OF ENVIRONMENTAL  
QUALITY'S FIRST REQUEST FOR  
PRODUCTION

Pursuant to Federal Rule of Civil Procedure 34 and Paragraph 23 of the Consent Decree,  
Plaintiff-Intervenor Oregon Department of Environmental Quality ("DEQ") requests that  
Defendant Johnson Rock Products, Inc. ("JRP") produce the following documents and  
information within 30 days. To facilitate a response, a courtesy copy of the requests will be

emailed concurrently. This request may be complied with at the Oregon Department of Justice, 1515 SW Fifth Ave, Suite 410, Portland, OR 97201. The following instructions and definitions are common to DEQ's First Request for Production ("Request").

### INSTRUCTIONS

1. The Request shall be deemed to be continuing. In the event you discover, obtain, or become aware of further information or documents responsive to the Request, you are requested to supplement your responses, and to produce such documents.

2. Defendant is to produce both the original of each requested document and all copies which differ from the original of each requested document by the addition or deletion of notation or markings or by any changes in language.

3. The Request seeks production of documents within your possession, custody or control (as those terms are used in Federal Rule of Civil Procedure 34), and includes, but is not limited to, documents in the possession, custody or control of predecessors in interest, consultants, accountants, associates, attorneys and other agents.

4. If any documents are or information is withheld by you under any claim of privilege or attorney work product, please furnish a list that provides the following information for each document or communication: the nature of the document or communication; the date of the document or communication; the author(s) of the document or originator(s) and recipient(s) of the communication; the subject matter of the document or communication; identification of any portions redacted (if applicable); the name(s) of each person to whom the document or communication was addressed; the name(s) of each person who otherwise received, viewed, or has had possession, custody or control of the document or communication; the Request for Production to which the document or communication would otherwise be responsive; and a statement of the basis upon which the privilege or work product protection is claimed, with sufficient particularity to permit a court to evaluate the merits of the claim of privilege or work product. The fact that a document request calls in part for documents which you claim to be

privileged or protected as work product is not a basis for you to fail to identify fully all documents or communications called for by the Request as to which no privilege or work product protection is claimed.

5. If any document responsive to the Request has been removed, destroyed or altered prior to the service of the Request, you are requested to furnish the following information with respect to each such document:

- a. the date, sender, recipient, persons to whom copies were sent, subject matter, present location and previous location of copies; and
- b. the identity of any person authorizing or participating in the removal, destruction, or alteration: and method and circumstances of such removal, destruction or alteration.

6. Unless otherwise specified, the documents or information to be produced are those dated and prepared or created or in effect, in whole or in part, at any time from April 1, 2012, to the present which are within the possession, custody or control of Defendant, its attorneys, agents, or employees.

### **DEFINITIONS**

1. "Consent Decree" means the Consent Decree entered on December 15, 2014 in federal case number 6:13cv00933-MC.

2. "Documents" as used in the Request is a comprehensive term. It includes any form of evidence within the scope of Fed. R. Civ. P. 26 and 34, including all printed, graphic or recorded items. Information and/or correspondence (including e-mail) stored or record digitally or in analog form in computer equipment, in a database, or on video tape is within the definition of "documents."

3. "Landslide" means the landslide described and referred to in the Consent Decree.

4. "Relating to" means concerning, referring, alluding to, responding to, in connection with, commenting on, in response to, about, regarding, announcing, explaining, discussing, showing, describing, setting, reflecting, analyzing, supporting or constituting.

5. "Road" means the road located at the Landslide site.

6. "You" or "your" means JRP or any person or entity acting on its behalf, including predecessors in interest, consultants, accountants, associates, attorneys and other agents.

### **REQUESTS**

**REQUEST FOR PRODUCTION NO. 1:** All documents relating to JRP's acquisition and placement of hog-fuel material on the road, including but not limited to contracts, invoices, receipts, purchase orders, checks, notes, correspondence and/or memoranda.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** All documents relating to Paragraph 11 of the Consent Decree, including but not limited to the inspection log and photos taken to document any condition not in compliance with the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** All documents relating to vegetative measures in described in Paragraph 14.A. and 14.B. of the Consent Decree, including but not limited to documents relating to efforts to establish woody native vegetation on banks of the unnamed tributary described in Paragraph 14.A and the annual report described in Paragraph 14.B.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:** All documents relating to the work described in Paragraph 15 of the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:** Documents sufficient to show that Hart Crowser employee John Lawes is licensed as required by Paragraph 13 of the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:** All documents relating to your determination that a check dam was not required at the site, including but not limited to all communications between JRP and Hart Crowser regarding the check dam.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 7:** All documents relating to Consent Decree Exhibit 3, including but not limited to all versions of all Figures contained in Consent Decree Exhibit 3.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:** Documents sufficient to show that all versions of all changes to Consent Decree Exhibit 3 were prepared by and/or approved by licensed personnel as required by Paragraph 13 of the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:** All documents relating to the scope of services or work that JRP hired Hart Crowser to perform, including but not limited to changes in the scope of services or work and approval of changes in the scope of services or work.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:** All documents relating to the scope of services or work that JRP hired PBS to perform, including but not limited to changes in the scope of services or work and approval of changes in the scope of services or work.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:** All documents relating to JRP and/or Hart Crowser's determination that a Type I sediment barrier was not required at the site.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:** All manuals, memoranda, instructions, directives, communications, or other documents or materials that you provided to your employees, agents, or contractors that relates to the performance of your duties under the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:** All documents relating to any engineering report prepared by Hart Crowser and/or PBS relating to work required by the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 14:** All documents relating to the culvert required by the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 15:** All documents relating to money or other consideration paid or received by JRP or on JRP's behalf in performing work required by or relating to the Consent Decree, including but not limited to contracts, invoices, receipts, purchase orders, checks, notes, correspondence and/or memoranda.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 16:** All documents relating to the expenditure of funds paid by insurance carriers relating to work required by the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 17:** All documents relating to money or other consideration paid or exchanged by JRP or on JRP's behalf to Hart Crowser for performing work or services required by or relating to the Consent Decree

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 18:** All documents relating to money or other consideration paid or exchanged by JRP or on JRP's behalf to PBS for performing work or services required by or relating to the Consent Decree.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 19:** Provide all municipal, state, and/or federal income tax returns that you have filed for the years 2012, 2013, and 2014. This request includes all schedules and other materials that form a complete municipal, state, or federal tax return.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 20:** All balance sheets from January 1, 2015, to the present.

**RESPONSE:**

DATED this 7th day of October, 2015.

ELLEN F. ROSENBLUM  
Attorney General

s/ Nina Englander

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## CERTIFICATE OF SERVICE

I certify that on October 7th, 2015, I served the foregoing PLAINTIFF-INTERVENOR OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY'S FIRST REQUEST FOR PRODUCTION upon the parties hereto by electronic mail, and by mailing, regular mail, postage prepaid, a true, exact and full copy thereof to:

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Of Attorneys for Intervenor-Plaintiff