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Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES, in its own right and on
behalf of the Lummi Nation,

NO. C01-0047Z

Plaintiff,

LUMMI NATION,

Plaintiff-Intervenor,

FEDERAL WATER MASTER’S ANNUAL
REPORT FOR FISCAL YEAR 2013-
2014; MOTION TO COURT TO
APPROVE CHANGES TO SERVICE LIST

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY et al.

Defendants.

The “Settlement Agreement Regarding Uses of Groundwater on Lummi Peninsula”
(Settlement Agreement) was entered into by the parties to resolve the claims in this case.
The Court, by its Order and Judgment dated November 20, 2007, approved the Settlement
Agreement. The Agreement provides for the appointment of a Water Master “to protect
[the parties’] respective rights to the allocations set forth [in the Agreement], and to protect
the aquifer from saltwater intrusion.” Settlement Agreement at § VIII(A)(1). Section

1 VIII(A)(1)(c) of the Agreement requires the Water Master to “issue an annual report of the
2 activities of the Water Master’s office, including requests for action, decisions or orders
3 issued, and enforcement actions taken.” The Court, in paragraph 14 of its Omnibus Order
4 of August 7, 2008, specified that the Water Master will file and serve the annual report on
5 or before June 30th of each year.
6

7 The Court appointed the undersigned as Water Master on June 10, 2008, and this is
8 the Water Master’s Annual Report for fiscal year 2013-2014 This report also includes a
9 motion to the Court to approve changes to the Service List for this case.
10

11 **REQUESTS FOR ACTION; DECISIONS & ORDERS ISSUED**

12 Since his appointment in 2008, the Water Master has opened 23 formal proceedings;
13 eight have been brought by the Washington Department of Ecology to enforce
14 administrative penalties; 14 have been brought by the Master, on his own motion, to collect
15 allegedly unpaid annual Eligible Landowner Fees; and one has been opened by the Master,
16 on his own motion, to recommend improvements to the Service List. No new proceedings
17 were filed or opened during the 2013-2014 fiscal year. This is the status of the seven
18 proceedings opened during the 2012-2013 fiscal year:
19

20 WM 12-01, In re *Brett Randmel* (filed Sept. 11, 2012)
21 Alleged Failure to Submit Well Reports & Chloride Analysis
22 Status: Judgment entered June 13, 2013

23 WM 13-01, In re *Thomas R. Ficca* (filed May 1, 2013)
24 Alleged Failure to Pay Eligible Landowner Fees for 2011-2012 & 2012-2013
25 Status: Master’s report filed with the Court on May 13, 2014

26 WM 13-02, In re *Brett L. Randmel* (filed May 1, 2013)
27 Alleged Failure to Pay Eligible Landowner Fees for 2011-2012 & 2012-2013
28 Status: Judgment entered January 7, 2014

WM 13-03, In re *Greg Mahle & Krista Mahle* (filed May 1, 2013)
Alleged Failure to Pay Eligible Landowner Fees for 2012-2013

1 *Status:* Master's report filed with the Court on May 13, 2014

2 WM 13-04, In re *D. Robert Hoover* (filed May 1, 2013)
3 Alleged Failure to Pay Eligible Landowner Fee for 2012-2013
4 *Status:* Dismissed on June 13, 2013, upon satisfaction of claim

5 WM 13-05, In re *Greg Mahle & Krista Mahle* (filed June 11, 2013)
6 Alleged Failure to Submit 2011-2012 Annual Well Reports
7 *Status:* Master's report filed with the Court on May 13, 2014

8 WM 13-06, In re *Brett L. Randmel* (filed June 11, 2013)
9 Alleged Failure to Submit 2011-2012 Annual Well Reports & Chloride Analysis
10 *Status:* Master's report filed with the Court on May 13, 2014

11 Of the 23 formal proceedings, 19 have been closed by dismissal, settlement or
12 judgment. At present, four proceedings remain open, all pending action on the Master's
13 reports filed with the Court. The complete docket of proceedings may be found on the
14 Master's web site (*infra*).

15 **ENFORCEMENT ACTIONS TAKEN**

16 On July 2, 2010, the Court adopted a Supplemental Judgments provision as an
17 amendment to the Court's original Order and Judgment (Nov. 20, 2007). The Water Master
18 has used this procedure in 10 formal proceedings (WM 09-03, WM 09-06, WM 10-01, WM
19 10-02, WM 10-03, WM 11-01, WM 11-04, WM 11-05, WM 11-06, and WM 12-01) to secure
20 Supplemental Judgments for amounts due the Department of Ecology for unpaid penalties,
21 due the Clerk of the Court in reimbursement of the Master's fees and expenses incurred in
22 proceedings, or due the Clerk in payment of annual Eligible Landowner Fees. These
23 judgments or settlements have resulted in the recovery of fees and expenses in four of the
24 proceedings (WM 09-03, WM 09-06, WM 10-01, and WM 13-04). The judgments create
25 judgment liens in King County and abstracts of judgment are selectively recorded
26 (depending on prospects for recovery) in Whatcom County.
27
28

1 **FINANCIAL MATTERS**

2 In paragraph 6 of its Order Appointing Water Master (June 10, 2008), the Court
3 directed the Clerk of the Court “to establish an account in the registry of the Court into
4 which all monies paid pursuant to the Settlement Agreement shall be deposited. Any
5 compensation or reimbursements to be paid to the Water Master shall be made from said
6 account.”
7

8 The Clerk has maintained the required account since August 2008. Income has
9 consisted of payments from the Lummi Nation, Washington Department of Ecology,
10 individual water users, reimbursement of the Master’s fees and expenses incurred in
11 formal proceedings, filing fees, and bank interest. As of June 18, 2014, the Financial
12 Specialist for the District Court Clerk reported a balance of \$220,079. A summary of
13 account income and expenditures for the June 18, 2013, to June 18, 2014, period is as
14 follows:
15
16

17

Item	Amount	
<i>June 18, 2013, Balance</i>		\$215,400
<i>Income</i>		
Lummi Nation	\$7,000	
Department of Ecology	0	
Landowner Payments	7,310	
Interest	42	
Filing Fees & Other*	2,429	
<i>Total Income</i>		16,781
<i>Expenditures</i>		(12,102)
June 18, 2014, Balance		\$220,079

24 *Includes transfer from separate Clerk’s registry account of prior year payments.

25 The Settlement Agreement specifies that the Lummi Nation and the “state
26 defendants” each shall pay 50% of the budgeted costs of the Water Master’s office. The
27 “state defendants” are the Department of Ecology and Eligible Landowner households
28

1 receiving a right to water from the allocation administered by the Department. Settlement
2 Agreement § IV(G)(1).

3 For fiscal year 2013-2014, the Lummi Nation paid \$7,000 representing its 50% of the
4 amount needed to bring the balance in the Water Master's account to \$225,000—the
5 maximum permitted at that time under the Settlement Agreement. Eligible Landowners
6 paid \$7,310 or \$310 more than their 50% allocation, which offsets the \$312 landowner
7 shortage during the 2012-2013 period. Under the Settlement Agreement, the Department
8 of Ecology was not required to make a payment this fiscal year (*see* examples set forth in
9 section IV(G)(2) of Settlement Agreement).

10
11
12 As was the case for prior years, the eleven months of the 2013-2014 fiscal year have
13 been relatively peaceful; but the Water Master has undertaken work and incurred expenses
14 in two enforcement actions, several Eligible Landowner Fee matters, and continued
15 implementation of a proceeding (WM 11-03) to improve the accuracy of the post-Decree
16 Service List.

17
18 The table set forth in Attachment A (with estimated June data) reflects the Master's
19 time (in dollars at \$200 per hour) and expenses for this fiscal year and the previous five
20 years. The average monthly fee during 2013-2014 has been \$771 and the average monthly
21 expenses have been \$52.

22 **WATER MASTER BUDGET 2014-2015**

23
24 Pursuant to section IV(G)(4) of the Settlement Agreement, the Water Master is
25 required to confer with the Department of Ecology and the Lummi Nation before June 1st of
26 each year on a draft Water Master budget for the next fiscal year. Section IV(G)(4) also
27 indicates that Ecology and the Lummi Nation will adopt a final budget by agreement
28

1 entered into by July 1st.

2 The required discussions were held in May 2014, and the Department of Ecology and
3 the Lummi Nation agreed on a final Water Master budget for fiscal year July 1, 2014, to June
4 30, 2015. Specifically, they agreed to continue the existing arrangement originally set forth
5 in the Court's August 7, 2008, order and continued during subsequent fiscal years including
6 the 2013-2014 fiscal year. Accordingly, the Lummi Nation and the Department of Ecology
7 have adopted a budget of \$100,000 for the 2014-2015 fiscal year. The Water Master's
8 hourly rate will remain unchanged at \$200 per hour and he will continue his efforts to
9 minimize his time and costs. This agreement was communicated to the Court on June 25,
10 2014 (letter on Water Master's website).
11
12

13 As mentioned, the Clerk's Financial Specialist reported that, as of June 18, 2014, the
14 balance in the Water Master's account was \$220,079. At the conclusion of the 2013-2014
15 fiscal year, the Water Master's account will have a balance of approximately \$214,497 (June
16 18, 2014, balance less the Master's pending and estimated claims for May and June 2014).
17 Since this figure is less than the maximum \$226,380 carryover balance anticipated by the
18 Settlement Agreement, adjusted for inflation (*see following discussion*), the Lummi Nation
19 and Eligible Landowners will need to pay collectively an additional amount for fiscal year
20 2013-2014, pursuant to the payment provisions set forth in sections IV(G)(1) & (2) of the
21 Settlement Agreement.
22
23

24 Section IV(G)(2) provides, "[T]he amount the Lummi Nation and state defendants pay
25 shall be reduced proportionally so that the total amount in the Water Master's account
26 does not exceed Two Hundred Thousand Dollars (\$200,000), *adjusted by the Implicit Price*
27 *Deflator*" (emphasis added). Thus, the Settlement Agreement contemplates a periodic
28

1 inflation adjustment to this cap.

2 The U.S. Bureau of Economic Analysis maintains the Implicit Price Deflator, but
3 Washington State’s Economic and Revenue Forecast Council publishes annual reports of
4 several inflation indices for the Seattle area. Council staff advises the use of Table A4.1,
5 “Selected Inflation Indicators,” found on p. 98 of the Council’s *Washington State Economic*
6 *and Revenue Forecast* (Feb. 2014).¹ According to Council staff, the “Price Deflator” increase
7 over a series of years is calculated by determining the difference between the index figures
8 for the beginning and ending years and expressing that change as a percentage of increase
9 or decrease over the base year. For Lummi Decree purposes, the 2006² index is 0.947 and
10 the 2013 index is 1.072 (the 2014 index is not used since it is a forecast). The percentage of
11 change 2006-2013 is 13.19%.

12 Thus, to comply with section IV(G)(2) of the Settlement Agreement, the ceiling on the
13 Water Master’s account should be adjusted by 13.19% to \$226,380.

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17 **PARTIES’ FEES 2014-2015**

18 A total of \$11,883 (rounded to \$11,880) will be necessary to bring the Water Master’s
19 account up to the maximum amount of \$226,380 allowed by Settlement Agreement section
20 IV(G) and as adjusted for inflation as previously discussed (\$226,380 minus expected year-
21 end balance of \$214,497). Of the \$11,880, the Lummi Nation will pay \$5,940. Pursuant to
22 section IV(G)(1) of the Settlement Agreement, the Eligible Landowner Fee will be \$23 for
23
24
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27 ¹ Available at <http://www.erfc.wa.gov/publications/documents/feb14pub.pdf>.

28 ² While the Settlement Agreement was not approved by the Court until November 2007, the Agreement itself appears to establish a 2006 base year for these financial calculations. See Settlement Agreement § IV(G)(2).

1 the basic parcel in order to raise the \$5,940 required of the state parties.³ This is
2 considerably less than the annual \$100 fee imposed when the Decree was first issued. The
3 Department of Ecology will pay nothing for the 2014-2015 fiscal year (*see* examples set
4 forth in section IV(G)(2) of Settlement Agreement).

5
6 The Court's August 7, 2008, order (in paragraph 3) specifies that "[i]n subsequent
7 years [beyond 2008/2009], Lummi Nation shall pay its share of the Water Master budget
8 on or before August 1st of the fiscal year." Similarly, the order (in paragraph 4) provides
9 that the Department of Ecology will pay its share of the Water Master budget by August 1st
10 (however, as discussed above, no Ecology payment is required for the 2014-2015 fiscal
11 year) and also send Water Master fee notices to Eligible Landowners by August 1st. Eligible
12 Landowners must pay their fees by November 1st.

13 **SERVICE LIST**

14
15 A continuing problem in Lummi Decree administration has been declining accuracy in
16 the Service List maintained by the Clerk of the Court. In his 2011-2012 annual report, the
17 Water Master recommended, and the Court adopted, certain annual procedures conducted
18 in cooperation with the Washington Department of Ecology to improve accuracy of the
19 Service List, specifically to (a) identify apparent changes in party and water user contact
20 information; (b) propose changes to the Court with opportunities for parties to object and
21 respond; and (c) culminate in a Court order approving the updates to the Service List. *See*
22 Federal Water Master's Report to the Court on Recommendations for Updating the Service
23 List (June 29, 2012).

24
25
26
27 ³ Calculated as follows: $x/5940 = 28/7310$, where x is the basic 2014-15 Eligible Landowner Fee,
28 5940 is the amount to be raised for 2014-15, 28 is the 2013-14 basic fee, and 7310 is the amount
actually raised from Eligible Landowner fees during 2013-14. This formula produces an annual,
basic fee of \$22.75, rounded to \$23.

1 The Master has completed the second annual review of the Service List, based on the
2 above procedure, and now recommends a series of corrections to the Service List set forth
3 in Attachment B to this Report. Recipients of this Annual Report are urged to examine
4 Attachment B to determine whether a recommendation affects them. Attachment B
5 provides explanatory information and the procedure for filing an objection if you believe
6 the Master's recommendations are incorrect. Attachment C is a proposed Court order for
7 updating the Service List, and Attachment D is a preprinted Objection Form.
8

9 **WEBSITE**

10
11 Pursuant to the Court's direction, the Waster Master established and maintains a
12 website that provides information on how to initiate proceedings before the Master, the
13 status of pending proceedings, a compendium of the Master's claims for fees and expenses
14 and the Court's orders in response to those claims, and annual reports and service
15 certificates. The Master's website may be found at: www.lummiwatermaster.com.
16

17 **CONCLUSION**

18 I continue to appreciate the opportunity to work with the Court, the parties, counsel,
19 and Court staff—all of whom have been helpful and cordial. I thank them for their
20 assistance. I especially thank Kasey Cykler of the Washington Department of Ecology and
21 Charles Hurt, Jr., and Jeremy Freimund of the Lummi Nation for their assistance in
22 identifying address changes and water allocation transfers. I hereby respectfully submit
23 my annual report for 2013-2014.
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Dated: June 30, 2014

/s/ John E. Thorson

John E. Thorson
Federal Water Master – Lummi Decree
376 River Road West
Plains, MT 59859
(406) 826-0500
johnethorson@mac.com

CERTIFICATE OF SERVICE

The Certificate of Service of this Annual Report and all attachments has been filed separately with the Clerk of the Court. A copy of the Certificate may be reviewed on the Water Master’s website: www.lummiwatermaster.com.

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ATTACHMENT A: FEDERAL WATER MASTER EXPENDITURES
BY FISCAL YEAR (2008-09 TO 2013-14)

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ATTACHMENT B: SERVICE LIST RECOMMENDATIONS

Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES, in its own right and on
behalf of the Lummi Nation,

NO. C01-0047Z

Plaintiff,

LUMMI NATION,

Plaintiff-Intervenor,

FEDERAL WATER MASTER'S
RECOMMENDATIONS FOR UPDATING
THE SERVICE LIST

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY et al.

Defendants.

BACKGROUND

THIS DOCUMENT proposes changes to the Service List maintained for this case, No. C01-0047Z. The Service List sets forth the names and addresses of parties entitled to ongoing notice of most proceedings in this case. These changes are necessary to facilitate

1 ongoing administration and enforcement of the November 2007 Order and Judgment (and
2 subsequent amendments) known as the Lummi Decree.

3 The proposed changes generally result from the following information or events: (a)
4 Court documents to a party listed on the Service List being returned by the U.S. Postal
5 Service without a forwarding address; (b) ownership changes in parcels having a water
6 allocation under the Lummi Decree (Exhibit C & D listings); (c) transfers of parcel
7 ownership or water service to the Lummi Nation (thus necessitating removal from Exhibit
8 C or D); or (d) a withdrawing attorney substituting the client on the Service List.

9
10 The Federal Water Master has followed the procedures set forth in the Report to the
11 Court on Recommendations for Updating the Service List (Doc. No. 1411; June 29, 2012),
12 subsequently approved by the Court. The proposed changes are to the September 19, 2013,
13 version of the Service List approved by the Court and maintained by the Court Clerk. You
14 may review a copy of the Report and the Service List on the Master's website:
15 www.lummiwatermaster.com.

18 GENERAL INSTRUCTIONS

19 1. Please review the following table for your name (names are listed in the second
20 column, alphabetically by last name; if your name is associated with any Exhibit C parcel,
21 that address is provided). If your name is not listed and you currently receive documents
22 from the Court or Master, you do not need to do anything. To ensure you are listed on the
23 Service List (unrepresented parties only), see a copy of September 19, 2013, Service List on
24 the Master's website: www.lummiwatermaster.com.

25
26 2. If you are listed in the following table, review your entry for accuracy. Each entry
27 sets forth some or all of this information:
28

1 *Table Reference Number (Ref. #)*—The unique number for each entry in the table.

2 Use this number if you file an objection (*see below*).

3 *Status*—The status of your listing (if any) on the Service List: whether or not you are
4 currently listed on the Service List; whether Court documents have been returned without
5 forwarding address; whether ownership has changed concerning a parcel having a water
6 allocation; and whether the Washington Department of Ecology (DOE) has provided
7 relevant information.
8

9 *Names & Addresses*—Relevant names and addresses including any Service List
10 listing (Sept. 19, 2013 version) that appears obsolete, as well as any new names and
11 addresses. This information is based on information provided by the U.S. Postal Service,
12 Department of Ecology, and other information properly considered by the Clerk and
13 Master.
14

15 *Motion*—The Master’s specific recommendation concerning your entry. Usually, the
16 recommendations are to (a) delete a name and address from the Service List because no
17 new address is available and/or the party no longer has an ownership interest in a parcel
18 having a water allocation; (b) update a name and address on the Service List based on new
19 information; or (c) add a name and address to the Service List because the person has an
20 ownership interest in a parcel having a water allocation.
21
22

23 3. If you DO NOT object to the Master’s motion or specific recommendation concerning
24 your entry, you do not need to do anything. The Court will formally make these changes
25 after the 30-day objection period.

26 4. If you DO object to the Master’s motion or specific recommendation concerning your
27 entry, you must file an objection with the Court by July 30, 2014, under the provisions of
28

1 Federal Rules of Civil Procedure (F.R.C.P.) 53(f), to propose the correct information. Please
2 see the next section for detailed instructions for filing an objection.

3 **INSTRUCTIONS FOR FILING AN OBJECTION**

4
5 1. If you are filing an objection to your specific entry in the table, you may use the
6 preprinted Objection Form attached as Attachment D. A Rich Text Format (rtf) version of
7 the form may be found on the Master's website: www.lummiwatermaster.com.

8 If you are filing an objection for any other reason, you will need to prepare your own
9 pleading for filing and service.

10
11 2. If using the preprinted Objection Form, please type or print the following
12 information in the specified spaces on pages 1 and 2:

13 --The Table Reference No. (Ref. #) for the entry to which you object

14 --In the Incorrect Information Box, set forth the incorrect information

15 --In the Correct Information Box, set forth the correct information.

16
17 3. You must sign the Objection Form in two spaces. In the Signature block (page 3),
18 please sign your name and provide your mailing address, telephone number, and e-mail
19 address (required by F.R.C.P. 11).

20
21 *Caution:* By signing and filing this Objection Form, you certify to the Court, under
22 F.R.C.P. 11, "that to the best of your knowledge, information, and belief, formed after an
23 inquiry reasonable under the circumstances [that your] factual contentions have
24 evidentiary support or, if specifically so identified, will likely have evidentiary support after
25 a reasonable opportunity for further investigation or discovery; and [your] denials of
26 factual contentions are warranted on the evidence or, if specifically so identified, are
27 reasonably based on belief or a lack of information."
28

1
2 4. The second place you sign your name is in the Certificate of Service block (page 4).
3 Here you verify you are filing the original Objection Form with the Court and sending
4 copies to the Federal Water Master, the Washington Department of Ecology, Lummi Nation,
5 and the United States (addresses are provided).
6

7 5. You must send the original Objection Form to the Clerk of the Court for filing. Your
8 Objection Form must be filed on or before Wednesday, July 30, 2014. Be sure to keep a
9 copy for your records. If you request the Clerk to return a conformed copy of your
10 objection, please include an extra copy and mailing instructions.
11

12 6. At the same time you send your Objection Form to the Court, you must send copies
13 of your Objection Form to the Federal Water Master, the Washington Department of
14 Ecology, Lummi Nation, and the United States. The addresses are set forth in the Certificate
15 of Service portion of the form.
16

17 7. Although you are required to include your e-mail address on your objection, this
18 does not make you eligible to receive future communications from the Court or other
19 parties by e-mail. To register for the Court's e-filing system (CM/ECT), please see:
20 <http://www.wawd.uscourts.gov/attorneys/cmecf>.
21

22 8. The following table refers to Exhibit C and D listings or parcels. Exhibit C is a listing
23 of parties withdrawing water from the Washington State allocation of water at the time of
24 the 2007 Lummi Decree. Exhibit D is a listing of well registrations receiving water from the
25 state allocation at the time of the 2007 Lummi Decree. The Department of Ecology has
26 provided the Federal Water Master with updates to these exhibits that are set forth in the
27 following recommendations.
28

**MASTER'S RECOMMENDATIONS
FOR UPDATING THE SERVICE LIST**

The Federal Water Master moves the Court to make the following corrections to the Service List for this case, No. C01-0047Z.

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
1	1659 Holdings Ltd. D56	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports address change based on Whatcom County Assessor's records</p> <p><i>Service List Address:</i> 1659 Holdings Ltd. c/o Jill F. Worobec 2502-898 Carnarvon St. New Westminster, B.C. Canada V3M 0C3</p> <p><i>New Address:</i> 1659 Holdings Ltd. c/o Jill F. Worobec 504-1521 George St. White Rock, B.C. Canada V4B 4A4</p> <p><i>Motion:</i> Update Service List with New Address</p>
2	Bartel, Angie C9 2131 Postal Ave.	<p><i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address; however, Dep't of Ecology reports new address</p> <p><i>Service List Address:</i> Angie Bartel 2131 Postal Ave. Bellingham, WA 98226</p> <p><i>New Address:</i> Angie Bartel 2205 Lummi Shore Rd. Bellingham, WA 98226</p> <p><i>Motion:</i> Update Service List with New Address</p>
3	Close, Kathryn L.	<p><i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address</p> <p><i>Service List Address:</i></p>

1		Kathryn L. Close 2204 73 rd Street Everett, WA 98203
2		<i>Motion:</i> Delete name & mailing address from Service List
3		
4	Cornwell Holdings LLC	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & water allocation from Dennis & Barbara Demorest (<i>see</i> Nos. 7 & 8); however, Dep't of Ecology reports subsequent transfer of allocation & service to Lummi Nation
5	D16	<i>Mailing Address:</i> Cornwell Holdings LLC 2930 Leeward Way Bellingham WA 98226-8612
6		<i>Motion:</i> Do not add name & address to Service List
7		
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10		
11	DeHart, Larry W.	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & water allocation from Richard S. & Martha Witt (<i>see</i> Nos. 35 & 36); however, Lummi Nation reports 2/25/14 transfer of allocation & service to Lummi Nation
12	D41	<i>Mailing Address:</i> Larry W. DeHart 16129 446 th Ave., S.E. North Bend, WA 98045-9272
13		<i>Motion:</i> Do not add name & mailing address to Service List
14		
15		
16		
17	DeHart, Pirjo	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & water allocation from Richard S. & Martha Witt (<i>see</i> Nos. 35 & 36); however, Lummi Nation reports 2/25/14 transfer of allocation & service to Lummi Nation
18	D41	<i>Mailing Address:</i> Pirjo DeHart 16129 446 th Ave., S.E. North Bend, WA 98045-9272
19		<i>Motion:</i> Do not add name & mailing address to Service List
20		
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24	Demorest, Barbara	<i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address; Dep't of Ecology reports sale of property & water allocation to Cornwell Holdings LLC (<i>see</i> No. 4) & transfer of water allocation & service to Lummi Nation
25	D16	<i>Service List Address:</i> Barbara Demorest 3670 Haggin Street Bellingham, WA 98226
26		
27		
28		

		<i>Motion:</i> Delete name & mailing address from Service List
8	Demorest, Dennis D16	<i>Status:</i> Not on existing Service List but listed on Exhibit D; Dep't of Ecology reports sale of property & water allocation to Cornwell Holdings LLC (<i>see</i> No. 4) & subsequent transfer of water allocation & service to Lummi Nation <i>Mailing Address:</i> Dennis Demorest 3670 Haggin Street Bellingham, WA 98226 <i>Motion:</i> Do not add name & mailing address to Service List
9	Doucette, Robert E.	<i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address <i>Service List Address:</i> Robert E. Doucette 3359 Robertson Rd. #Moble Bellingham, WA 98226-8606 <i>Motion:</i> Delete name & mailing address from Service List
10	Edson, Barbara D55	<i>Status:</i> On existing Service List; Dep't of Ecology reports transfer or ownership & allocation to Timberline Logging, with subsequent transfer to William & Wanda Tanner; Edson appears to continue ownership in C1 <i>Service List Address:</i> Barbara Edson 12933 Homes Pr. Dr. N.E. Kirkland, WA 98034 <i>Motion:</i> Retain name & mailing address on Service List
11	Edson, Walter A. D55	<i>Status:</i> On existing Service List; Dep't of Ecology reports transfer or ownership & allocation to Timberline Logging, with subsequent transfer to William & Wanda Tanner; Edson appears to continue ownership in C1 <i>Service List Address:</i> Walter A. Edson 12933 Homes Pr. Dr. N.E. Kirkland, WA 98034 <i>Motion:</i> Retain name & mailing address on Service List
12	Fisher, Clifford D.	<i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address

		<p><i>Service List Address:</i> Clifford D. Fisher 2204 Huron Rd. W. Lafayette, IN 47906-1922</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
13	Gergely, Michael D13	<p><i>Status:</i> Not on existing Service List; Lummi Nation reports 9/24/13 transfer of water allocation & service to Lummi Nation (indicating apparent prior ownership interest in property)</p> <p><i>Mailing Address:</i> Michael Gergely 601 - 9300 Parksville Dr. Richmond, B.C. Canada V7E4W3</p> <p><i>Motion:</i> Do not add name & mailing address to Service List</p>
14	Handy, Dorothy D12	<p><i>Status:</i> Not on existing Service List; Dep't of Ecology reports sale of property & water allocation to Carl & Carol Lane (indicating prior, apparent ownership interest in property) (<i>see</i> Nos. 17 & 18); Handy appears to continue ownership in D13</p> <p><i>Mailing Address:</i> Dorothy Handy 420 Thresher Avenue Sedro Woolley, WA 98284</p> <p><i>Motion:</i> Add name & mailing address to Service List</p>
15	Handy, Kenny D12	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports sale of property & water allocation to Carl & Carol Lane (<i>see</i> Nos. 17 & 18); Handy appears to continue ownership in D13</p> <p><i>Service List Address:</i> Kenny Handy 420 Thresher Avenue Sedro Woolley, WA 98284</p> <p><i>Motion:</i> Retain name & mailing address on Service List</p>
16	Jackson, Nancy E. D12	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports sale of property & water allocation to Carl & Carol Lane (<i>see</i> Nos. 17 & 18); Jackson appears to continue ownership in D13</p> <p><i>Service List Address:</i> Nancy E. Jackson 420 Thresher Avenue Sedro Woolley, WA 98284</p>

		<i>Motion:</i> Retain name & mailing address on Service List
17	Lane, Carl D12	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & water allocation from Handy & Jackson (<i>see</i> Nos. 14-16); Lummi Nation reports 1/8/14 transfer of water allocation & service to Lummi Nation <i>Mailing Address:</i> Carl Lane 2106 Lummi View Dr. Bellingham, WA 98226-7206 <i>Motion:</i> Do not add name & mailing address to Service List
18	Lane, Carol D12	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & water allocation from Handy & Jackson (<i>see</i> Nos. 14-16); Lummi Nation reports 1/8/14 transfer of water allocation & service to Lummi Nation <i>Mailing Address:</i> Carol Lane 2106 Lummi View Dr. Bellingham, WA 98226-7206 <i>Motion:</i> Do not add name & mailing address to Service List
19	Lindsey, Graham J. C14 2147 Lummi Shore Rd.	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & allocation from Martreck C. Trecker (<i>see</i> No. 34) <i>Mailing Address:</i> Graham J. Lindsey 2147 Lummi Shore Rd. Bellingham, WA 98226-9243 <i>Motion:</i> Add name & mailing address to Service List
20	Lindsey, Rosma C14 2147 Lummi Shore Rd.	<i>Status:</i> Not on existing Service List; Dep't of Ecology reports purchase of property & allocation from Martreck C. Trecker (<i>see</i> No. 34) <i>Mailing Address:</i> Rosma Lindsey 2147 Lummi Shore Rd. Bellingham, WA 98226-9243 <i>Motion:</i> Add name & mailing address to Service List
21	Martin, Jerry	<i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address

		<p><i>Service List Address:</i> Jerry Martin 2850 N. Nugent Road Lummi Island, WA 98262-8681</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
22	<p>Morse, Allen K.</p> <p>C6: 2120 Postal</p>	<p><i>Status:</i> Not on existing Service List; ownership change reported on 7/24/13 by son, Allen K. Morse (<i>see</i> No. 23)</p> <p><i>Mailing Address:</i> Allen K. Morse 2095 Postal Avenue Bellingham, WA 98226</p> <p><i>Motion:</i> Add name and mailing address to Service List</p>
23	<p>Morse, Edna</p> <p>C6: 2120 Postal</p>	<p><i>Status:</i> On existing Service List; ownership change reported on 7/24/13 by son, Allen K. Morse (<i>see</i> No. 22)</p> <p><i>Service List Address:</i> Edna Morse 2095 Postal Avenue Bellingham, WA 98226</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
24	<p>Neal, Stacy</p>	<p><i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address</p> <p><i>Service List Address:</i> Stacy Neal 2553 MacKenzie Road Bellingham, WA 98226</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
25	<p>Nielsen Brothers, Inc.</p> <p>D48</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports transfer of ownership & allocation to William & Wanda Tanner</p> <p><i>Service List Address:</i> Nielsen Brothers, Inc. P.O. Box 2789 Bellingham, WA 98227</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
26	<p>Nielsen, Joyce A.</p> <p>D17</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports 9/13/10 voluntary abandonment of allocation</p>

		<p><i>Service List Address:</i> Joyce A. Nielsen 3133 Sunset Way Bellingham, WA 98226</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
27	<p>Ring, Michael L.</p> <p>C19: 2163 Lummi Shore Rd.</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports death & transfer of ownership & allocation to Gary Roedell (<i>see</i> No. 28)</p> <p><i>Service List Address:</i> Michael L. Ring 2163 Lummi Shore Road Bellingham, WA 98226</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
28	<p>Roedell, Gary</p> <p>C19: 2163 Lummi Shore Rd.</p>	<p><i>Status:</i> Not on existing Service List; Dep't of Ecology reports transfer of ownership & allocation from Michael L. Ring (<i>see</i> No. 27)</p> <p><i>Service List Address:</i> Gary Roedell 2163 Lummi Shore Rd. Bellingham, WA 98226-9243</p> <p><i>Motion:</i> Add name & mailing address to Service List</p>
29	<p>Schmidt, George</p> <p>D8-11</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports 12/12 transfer of ownership, allocation & service to Lummi Nation</p> <p><i>Service List Address:</i> George Schmidt 522 13th Street Bellingham, WA 98225</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
30	<p>Schmidt, Roger</p> <p>D8-11</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports 12/12 transfer of ownership, allocation & service to Lummi Nation</p> <p><i>Service List Address:</i> Roger Schmidt 522 13th Street Bellingham, WA 98225</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
31	<p>Schnobrich, Sally R.</p>	<p><i>Status:</i> On existing Service List; death certificate provided by</p>

1		husband
2	3001 Haxton Way	<i>Service List Address:</i> Sally R. Schnobrich P.O. Box 3163 Ferndale, WA 98248
3		<i>Motion:</i> Delete name & mailing address from Service List
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6	32	Smith, Linnea G.
7	D50-51	<i>Status:</i> On existing Service List; Dep't of Ecology reports Ms. Smith is deceased
8		<i>Service List Address:</i> Linnea G. Smith 2808 Leeward Way Bellingham, WA 98226
9		<i>Motion:</i> Delete name & mailing address from Service List
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11	33	Strand, Julie
12	D8-11	<i>Status:</i> On existing Service List; Dep't of Ecology reports 12/12 transfer of ownership, allocation & service to Lummi Nation
13		<i>Service List Address:</i> Julie Strand 522 13 th Street Bellingham, WA 98225
14		<i>Motion:</i> Delete name & mailing address from Service List
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17	34	Trecker, Martreck C.
18	C14:	<i>Status:</i> On existing Service List; Dep't of Ecology reports transfer or ownership & allocation to Graham J. & Rosma Lindsey (<i>see</i> Nos. 19 & 20)
19	2147 Lummi Shore Rd.	<i>Service List Address:</i> Martreck C. Trecker 2147 Lummi Shore Road Bellingham, WA 98226
20		<i>Motion:</i> Delete name & mailing address from Service List
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23	35	Witt, Martha
24	D41	<i>Status:</i> On existing Service List; Dep't of Ecology reports sale of property & water allocation to Larry W. & Pirjo DeHart (<i>see</i> Nos. 5 & 6)
25		<i>Service List Address:</i> Martha J. Witt 23718 165 th Ave., S.E. Monroe, WA 98272
26		<i>Motion:</i> Delete name & mailing address from Service List
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36	Witt, Richard S. D41	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports sale of property & water allocation to Larry W. & Pirjo DeHart (<i>see</i> No. 5 & 6)</p> <p><i>Service List Address:</i> Richard S. Witt 23718 165th Ave., S.E. Monroe, WA 98272</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
37	Ye, Wenling D13	<p><i>Status:</i> On existing Service List; Lummi Nation reports 9/24/13 transfer of water allocation & service to Lummi Nation</p> <p><i>Service List Address:</i> Wenling Ye 601 - 9300 Parksville Dr. Richmond, B.C. Canada V7E4W3</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>
38	Zibens LLC	<p><i>Status:</i> On existing Service List; 2013 Annual Report returned by USPS without forwarding address</p> <p><i>Service List Address:</i> Zibens LLC 16657 SE 8th Street Bellevue, WA 98008-6011</p> <p><i>Motion:</i> Delete name & mailing address from Service List</p>

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3 **NOTICE OF TIME FOR OBJECTION**

4 Paragraph 11(a) of the Court's November 2007 Order and Judgment (as amended)
5 provides that objections to the recommendations set forth in the foregoing table must be
6 filed within 30 days of service of the Annual Report containing this table. For purposes of
7 this Annual Report, objections must be filed and served by Wednesday, July 30, 2014.
8

9 Respectfully submitted,

10 DATED June 30, 2014

11 */s/ John E. Thorson*

12 _____
13 John E. Thorson
14 Federal Water Master
15 Lummi Decree
16 376 River Road West
17 Plains, MT 59859
18 (406) 826-0500
19 johnethorson@mac.com
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ATTACHMENT C: PROPOSED COURT ORDER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES, in its own right and on
behalf of the Lummi Nation,

NO. C01-0047Z

Plaintiff,

LUMMI NATION,

Plaintiff-Intervenor,

[PROPOSED] ORDER

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY et al.

Defendants.

No [Certain] objection[s] to Attachment B, the Federal Water Master's
Recommendations for Updating the Service List, set forth in the Master's 2013-2014
Annual Report (June 30, 2014) (Docket No. ____), having been filed or received within the
time specified by Paragraph 11(a) of the Court's November 2007 Order and Judgment (as
amended), the Court now enters the following Order:

1 The Federal Water Master's Recommendations for Updating the Service List, set
2 forth as Attachment B to the Master's 2013-2014 Annual Report, are approved [with the
3 following changes: (Insert any changes)].

4 With the assistance of the Master, the Clerk is instructed to update and restate the
5 Service List for this case in accordance with the Master's recommendations [, as modified
6 herein by the Court].

7 IT IS SO ORDERED.

8 DATED this ___ day of August 2014.

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12 Thomas S. Zilly
13 United States District Judge
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**ATTACHMENT D: OBJECTION FORM
(FOLLOWING PAGES)**

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Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES, in its own right and on
behalf of the Lummi Nation,

NO. C01-0047Z

Plaintiff,

LUMMI NATION,

Plaintiff-Intervenor,

OBJECTION TO THE FEDERAL WATER
MASTER'S RECOMMENDATIONS FOR
UPDATING THE SERVICE LIST

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY et al.

[Set forth as Attachment A to the
Federal Water Master's Annual Report
filed June 30, 2014]

Defendants.

I, the undersigned person, object to a Service List recommendation made by the
Federal Water Master as set forth in Attachment B, Federal Water Master's
Recommendations for Updating the Service List, part of the Master's 2013-2014 Annual
Report (June 30, 2014).

My objection pertains to the entry identified as Table Reference No. (Ref. #) _____.

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Incorrect Information: I object to this information set forth in this Table entry [print or type]:

Correct Information: I affirm that the following is the correct information for this Table entry [print or type]:

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2
3 I request the Court to correct the Service List in accordance with the information I
4 have provided.

5
6 Respectfully submitted,

7 DATED: July ____, 2014

8 *Your Signature:* _____

9 *Name (Printed or Typed):* _____

10 *Address:* _____

11 *City, State or Province:* _____

12 *Zip or Postal Code:* _____

13 *Country (if other than US):* _____

14 *Telephone No.:* _____

15 *E-Mail Address:* _____

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21 **Certificate of Service**

22 I certify that, on July ____, 2014, I submitted the foregoing Objection for filing in the
23 above-captioned matter by first-class mail addressed to the Clerk of Court as
24 follows:

25 US District Courthouse Clerk's Office
26 700 Stewart Street, Suite 2310
27 Seattle, WA 98101

28 I further certify that, on July ____, 2014, I served copies of the foregoing Objection
filed in the above-captioned matter by first-class mail addressed to the following
persons:

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John E. Thorson
Federal Water Master | Lummi Decree
376 River Road West
Plains, MT 59859

Travis H. Burns
Assistant Attorney General
Ecology Division
Attorney General of Washington
P.O. Box 40117
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Attorney for the Department of Ecology

Charles Hurt, Jr.
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Bellingham, WA 98226
Attorney for the Lummi Nation

James B Cooney
U.S. DOJ-ENRD
Indian Resources Section
P.O. Box 44378
L'Enfant Plaza Station
Washington, D.C. 20026-4378
Counsel for the United States

Your Signature: _____