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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 2016-  
2017; 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 30<sup>th</sup> 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 2016-2017. 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 25 formal proceedings;  
13 nine have been brought by the Washington Department of Ecology to enforce  
14 administrative penalties; 15 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 2016-2017 fiscal year:  
18

19 Of the 25 formal proceedings, 24 have been closed by dismissal, settlement or  
20 judgment. At present, one proceeding remains open. The complete docket of proceedings  
21 may be found on the Master’s web site (*infra*).  
22

### 23 **ENFORCEMENT ACTIONS TAKEN**

24 On July 2, 2010, the Court adopted a Supplemental Judgments provision as an  
25 amendment to the Court’s original Order and Judgment (Nov. 20, 2007). The Water Master  
26 has used this procedure in 15 formal proceedings (WM 09-03, WM 09-06, WM 10-01, WM  
27

1 10-02, WM 10-03, WM 11-01, WM 11-04, WM 11-05, WM 11-06, WM 12-01, WM 13-01,  
2 WM 13-02, WM 13-03, WM 13-05, and WM 13-06) to secure Supplemental Judgments for  
3 amounts due the Department of Ecology for unpaid penalties and filing fees, due the Clerk  
4 of the Court in reimbursement of the Master's fees and expenses incurred in proceedings,  
5 or due the Clerk in payment of annual Eligible Landowner Fees. These judgments or  
6 settlements have resulted in the recovery of fees and expenses in four of the proceedings  
7 (WM 09-03, WM 09-06, WM 10-01, and WM 13-04). The judgments create judgment liens  
8 in King County and abstracts of judgment are selectively recorded (depending on prospects  
9 for recovery) in Whatcom County.  
10  
11

## 12 **FINANCIAL MATTERS**

13 In paragraph 6 of its Order Appointing Water Master (June 10, 2008), the Court  
14 directed the Clerk of the Court "to establish an account in the registry of the Court into  
15 which all monies paid pursuant to the Settlement Agreement shall be deposited. Any  
16 compensation or reimbursements to be paid to the Water Master shall be made from said  
17 account."  
18

19 The Clerk has maintained the required account since August 2008. Income has  
20 consisted of payments from the Lummi Nation, Washington Department of Ecology,  
21 individual water users, reimbursement of the Master's fees and expenses incurred in  
22 formal proceedings, filing fees, and bank interest. Based on the May 24<sup>th</sup> report of the  
23 Financial Specialist for the District Court Clerk, the June 30<sup>th</sup> account balance is anticipated  
24 to be approximately \$223,970. A summary of account income and expenditures for the July  
25 1, 2016, to June 30, 2017 (projected), period is as follows:  
26  
27

Item	Subtotal Amount	Amount
<i>July 1, 2016, Balance</i>		\$228,993
<i>Income</i>		
Lummi Nation	\$979	
Department of Ecology	0	
Landowner Payments	1170	
Interest	526	
<i>Total Income</i>		2675
<i>Expenditures</i>		(7,698)
<b>June 30, 2017, Balance (projected)</b>		<b>\$223,970</b>

The Settlement Agreement specifies that the Lummi Nation and the “state defendants” each shall pay 50% of the budgeted costs of the Water Master’s office. The “state defendants” are the Department of Ecology and Eligible Landowner households receiving a right to water from the allocation administered by the Department. Settlement Agreement § IV(G)(1).

For fiscal year 2016-2017, the Lummi Nation paid \$979 representing its 50% of the amount needed to bring the balance in the Water Master’s account to \$231,040—the maximum permitted at that time under the Settlement Agreement. Eligible Landowners paid \$1,170 which satisfied their 50% allocation plus a \$95 adjustment for prior year underpayments, which total payments during 2016-2017 removed the running underpayments by Eligible Landowners from prior years. Under the Settlement Agreement, the Department of Ecology was not required to make a payment this fiscal year (*see* examples set forth in section IV(G)(2) of Settlement Agreement).

As was the case for prior years, the eleven months of the 2016-2017 fiscal year have been very peaceful; but the Water Master has undertaken work and incurred expenses in financial and administrative matters (including maintaining the website), collecting Eligible

1 Landowner Fees, and ongoing implementation procedures developed in an earlier  
2 proceeding (WM 11-03) to retain the accuracy of the post-Decree Service List.

3 The table set forth in Attachment A (with estimated June data) reflects the Master's  
4 time (in dollars at \$200 per hour) and expenses for this fiscal year and the previous eight  
5 years. The average monthly fee billed during 2016-2017 has been \$600 and the average  
6 monthly expenses have been \$109.<sup>1</sup>

### 8 **WATER MASTER BUDGET 2017-2018**

9 Pursuant to section IV(G)(4) of the Settlement Agreement, the Water Master is  
10 required to confer with the Department of Ecology and the Lummi Nation before June 1<sup>st</sup> of  
11 each year on a draft Water Master budget for the next fiscal year. Section IV(G)(4) also  
12 indicates that Ecology and the Lummi Nation will adopt a final budget by agreement  
13 entered into by July 1<sup>st</sup>.

14 The required discussions were held and the Department of Ecology and the Lummi  
15 Nation agreed on a final Water Master budget for fiscal year July 1, 2017, to June 30, 2018.  
16 In its August 7, 2008, order, the Court set an initial annual budget of \$100,000 for the  
17 Water Master, and this amount has been adopted by agreement every year since. In view of  
18 the relatively modest annual expenditures since 2008, the Water Master is recommending  
19 a reduced budget of \$50,000 for the 2017-2018 fiscal year, and the Lummi Nation and  
20 Department of Ecology agree with that recommendation. The Water Master's hourly rate  
21 will remain unchanged at \$200 per hour and he will continue his efforts to minimize his  
22 time and costs. This agreement has been communicated to the Court (letter on Water  
23  
24  
25  
26

27  
28 <sup>1</sup> May and June bills are typically paid during the next decree year (*i.e.*, after July 1). Accordingly, for  
a decree year, the average monthly bill may vary from the average amount paid to the Master.

1 Master's website).

2 As mentioned, based on the Clerk's Financial Specialist report of May 24, 2017, the  
3 anticipated June 30, 2017, balance in the Water Master's account will be \$223,970. Since  
4 this figure is less than the adjusted \$233,800 ceiling anticipated by the Settlement  
5 Agreement (*see* following discussion), the Lummi Nation and Eligible Landowners will need  
6 to pay collectively an additional amount for fiscal year 2017-2018, pursuant to the payment  
7 provisions set forth in sections IV(G)(1) & (2) of the Settlement Agreement.  
8

9 Section IV(G)(2) provides, "[T]he amount the Lummi Nation and state defendants pay  
10 shall be reduced proportionally so that the total amount in the Water Master's account  
11 does not exceed Two Hundred Thousand Dollars (\$200,000), *adjusted by the Implicit Price*  
12 *Deflator*" (emphasis added). Thus, the Settlement Agreement contemplates a periodic  
13 inflation adjustment to this cap.  
14

15 The U.S. Bureau of Economic Analysis maintains the Implicit Price Deflator, but  
16 Washington State's Economic and Revenue Forecast Council publishes annual reports of  
17 several inflation indices for the Seattle area. Council staff advises the use of Table A4.1,  
18 "Selected Inflation Indicators," found on p. 103 of the Council's *Washington State Economic*  
19 *and Revenue Forecast* (Mar. 2017).<sup>2</sup> According to Council staff, the "Price Deflator" increase  
20 over a series of years is calculated by determining the difference between the index figures  
21 for the beginning and ending years and expressing that change as a percentage of increase  
22 or decrease over the base year. For Lummi Decree purposes, the 2006<sup>3</sup> index is 0.947 and  
23  
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26 <sup>2</sup> Available at <http://www.erfc.wa.gov/publications/documents/mar17pub.pdf>.

27 <sup>3</sup> While the Settlement Agreement was not approved by the Court until November 2007, the  
28 Agreement itself appears to establish a 2006 base year for these financial calculations. *See*  
Settlement Agreement § IV(G)(2).

1 the 2016 index is 1.107 (the 2017 index is not used since it is a forecast). The percentage of  
2 change 2006-2016 is 16.9%.

3 Thus, to comply with section IV(G)(2) of the Settlement Agreement, the ceiling on the  
4 Water Master's account should be adjusted by 16.9% to \$233,800 (as compared to last  
5 year's \$231,040 ceiling).  
6

### 7 **PARTIES' FEES 2016-2017**

8 A total of \$9,830 will be necessary to bring the Water Master's account up to the  
9 maximum amount of \$233,800 allowed by Settlement Agreement section IV(G) and as  
10 adjusted for inflation as previously discussed (\$233,800 minus expected year-end balance  
11 of \$223,970). Of the \$9,830, the Lummi Nation will pay \$4,915 (1/2 of \$9,830). Eligible  
12 Landowners also will pay a total of \$4,915 (1/2 of \$9,830). Pursuant to section IV(G)(1) of  
13 the Settlement Agreement, the Eligible Landowner Fee will be \$20 for the basic parcel in  
14 order to raise the \$4,945 required of the state parties.<sup>4</sup> This is considerably less than the  
15 annual \$100 fee imposed when the Decree was first issued. The Department of Ecology will  
16 pay nothing for the 2017-2018 fiscal year (*see* examples set forth in section IV(G)(2) of  
17 Settlement Agreement).  
18  
19

20 The Court's August 7, 2008, order (in paragraph 3) specifies that "[i]n subsequent  
21 years [beyond 2008/2009], Lummi Nation shall pay its share of the Water Master budget  
22 on or before August 1<sup>st</sup> of the fiscal year." Similarly, the order (in paragraph 4) provides that  
23  
24

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25  
26 <sup>4</sup> Calculated as follows:  $x/4915 = 5/1179$ , where x is the basic 2017-2018 Eligible Landowner Fee,  
27 4945 is the amount to be raised for 2017-2018, 5 is the 2016-2017 basic fee, and 1170 is the  
28 amount actually raised from Eligible Landowner fees during 2016-2017. This formula produces an  
annual, basic fee of \$20.84, rounded downward to \$20 for convenience. The Department of Ecology  
reaches the same result by counting individual Eligible Landowners.

1 the Department of Ecology will pay its share of the Water Master budget by August 1<sup>st</sup>  
2 (however, as discussed above, no Ecology payment is required for the 2017-2018 fiscal  
3 year) and also send Water Master fee notices to Eligible Landowners by August 1<sup>st</sup>. Eligible  
4 Landowners must pay their fees by November 1<sup>st</sup>.

### 6 **SERVICE LIST**

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

16  
17  
18 The Master has completed the fifth annual review of the Service List, based on the  
19 above procedure, and now recommends a series of corrections to the Service List set forth  
20 in Attachment B to this Report. Recipients of this Annual Report are urged to examine  
21 Attachment B to determine whether a recommendation affects them. Attachment B  
22 provides explanatory information and the procedure for filing an objection if you believe  
23 the Master's recommendations are incorrect. Attachment C is a proposed Court order for  
24 updating the Service List, and Attachment D is a preprinted Objection Form.

### 27 **WEBSITE**



1 Pursuant to the Court's direction, the Water Master established and maintains a  
2 website that provides information on how to initiate proceedings before the Master, the  
3 status of pending proceedings, a compendium of the Master's claims for fees and expenses  
4 and the Court's orders in response to those claims, and annual reports and service  
5 certificates. The Master's website may be found at: [www.lummiwatermaster.com](http://www.lummiwatermaster.com).  
6

### 7 CONCLUSION

8 I continue to appreciate the opportunity to work with the Court, the parties, counsel,  
9 and Court staff—all of whom have been helpful and cordial. I thank them for their  
10 assistance. I especially thank Kasey Cykler of the Washington Department of Ecology for  
11 her assistance in identifying address changes and water allocation transfers. I also express  
12 my condolences upon the death of Jeremy Freimund, longtime water resource manager for  
13 the Lummi Nation. I hereby respectfully submit my annual report for 2016-2017.  
14

15 Dated: June 30, 2017.

16  
17 */s/John E. Thorson*

---

18 John E. Thorson  
19 Federal Water Master – Lummi Decree  
20 376 River Road West  
21 Plains, MT 59859  
22 (406) 826-0500  
23 johnethorson@mac.com

### 24 CERTIFICATE OF SERVICE

25 The Certificate of Service of this Annual Report and all attachments has been filed  
26 separately with the Clerk of the Court. A copy of the Certificate may be reviewed on the  
27 Water Master's website: [www.lummiwatermaster.com](http://www.lummiwatermaster.com).  
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**ATTACHMENT A: FEDERAL WATER MASTER EXPENDITURES**  
**BY FISCAL YEAR (2008-09 TO 2016-17)**

[Next page]

ATTACHMENT A: FEDERAL WATER MASTER EXPENDITURES BY FISCAL YEAR (2008-09 to 2016-17)

Month	2008-09		2009-10		2010-11		2011-12		2012-13	
	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp
July	\$800	\$513	\$400	\$75	\$250	\$0	\$500	\$0	300	\$0
Aug.	200	0	300	39	500	10	950	27	700	0
Sept.	0	0	100	0	400	2	900	14	700	6
Oct.	400	100	200	0	200	0	800	9	600	0
Nov.	2400	542	500	0	200	0	200	0	750	8
Dec.	100	0	200	0	200	0	1000	0	200	0
Jan.	0	0	650	4	450	2	950	6	200	0
Feb.	600	130	0	0	450	6	950	2	800	11
Mar.	0	0	200	0	800	11	200	0	400	1
April	450	0	200	0	400	12	900	0	800	42
May	1000	16	400	0	400	49	1300	115	700	105
June	1300	176	2300	275	2300	289	2700	574	6,050	1,464
TOTAL	\$7,250	\$1,477	\$5,450	\$393	\$6,550	\$381	\$11,350	\$747	\$12,200	\$1,637
Average	\$604	\$123	\$454	\$33	\$546	\$32	\$946	\$62	\$1,017	\$136

  

Month	2013-14		2014-15		2015-16		2016-17	
	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp
July	\$400	\$1	400	1	200	0	0	0
Aug.	700	14	100	5	200	0	0	0
Sept.	300	0	250	1	300	2	200	2
Oct.	650	2	200	0	600	0	0	0
Nov.	600	25	200	0	0	0	600	0
Dec.	200	0	200	0	200	0	200	0
Jan.	400	0	100	0	0	0	0	0
Feb.	600	5	100	0	100	0	400	0
Mar.	200	0	600	4	0	0	0	0
April	200	0	200	0	100	0	0	0
May	2000	7	1900	124	0	0	800	0
June	5000	867	4200	793	5000	1298	5000	1300
TOTAL	\$11,250	\$921	\$8,450	\$928	\$6,700	\$1,300	\$7,200	\$1,302
Average	\$938	\$77	\$704	\$77	\$558	\$108	\$600	\$109

Note: May and June bills are typically paid during the next decree year (i.e., after July 1). Accordingly, for a decree year, the average monthly bill may vary from the average amount paid to the Master.

1                                 **ATTACHMENT B: SERVICE LIST RECOMMENDATIONS**

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4  
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7  
8   Judge Thomas S. Zilly

9   UNITED STATES DISTRICT COURT  
10   WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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

NO. C01-0047Z

13                             Plaintiff,

14             LUMMI NATION,

15                                     Plaintiff-Intervenor,

16   FEDERAL WATER MASTER'S  
17   RECOMMENDATIONS FOR UPDATING  
18   THE SERVICE LIST

19                             v.

20             STATE OF WASHINGTON,  
21             DEPARTMENT OF ECOLOGY et al.

22                                     Defendants.

23   **BACKGROUND**

24             THIS DOCUMENT proposes changes to the Service List maintained for this case, No.  
25             C01-0047Z. The Service List sets forth the names and addresses of parties entitled to  
26             ongoing notice of most proceedings in this case. These changes are necessary to facilitate  
27

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 sent 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 August 26, 2016,  
13 version of the Service List approved by the Court (Docket No. 1502) and maintained by the  
14 Court Clerk. You may review a copy of the Report and the Service List on the Master's  
15 website: [www.lummiwatermaster.com](http://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 August 26, 2016, Service List on the  
24 Master's website: [www.lummiwatermaster.com](http://www.lummiwatermaster.com).

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

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 (August 26, 2016, 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 AGREE with the Master’s motion or specific recommendation concerning your  
24 entry, you do not need to do anything. The Court will formally make these proposed  
25 changes after the 30-day objection period.

26 4.        If you DISAGREE with the Master’s motion or specific recommendation concerning  
27 your entry, you must file an objection with the Court by Tuesday, August 1, 2017, under the  
28

1 provisions of Federal Rules of Civil Procedure (F.R.C.P.) 53(f), to propose the correct  
2 information. Please 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. Rich Text Format (rtf) and Portable  
7 Document Format (pdf) versions of the form may be found on the Master's website:  
8 [www.lummiwatermaster.com](http://www.lummiwatermaster.com).

9  
10 If you are filing an objection for any other reason other than the Master's recommendations  
11 set forth in the following table, you will need to prepare your own pleading for filing and  
12 service.

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

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

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

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

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

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

1 factual contentions are warranted on the evidence or, if specifically so identified, are  
2 reasonably based on belief or a lack of information.”

3 4. The second place you sign your name is in the Certificate of Service block (page 4).  
4 Here you verify you are filing the original Objection Form with the Court and sending  
5 copies to the Federal Water Master, the Washington Department of Ecology, Lummi Nation,  
6 and the United States (addresses are provided).  
7

8 5. You must send the original Objection Form to the Clerk of the Court for filing. Your  
9 Objection Form must be filed on or before Monday, August 1, 2017. Be sure to keep a copy  
10 for your records. If you request the Clerk to return a conformed copy of your objection,  
11 please include an extra copy and mailing instructions.  
12

13 6. At the same time you send your Objection Form to the Court, you must send copies  
14 of your Objection Form to the Federal Water Master, the Washington Department of  
15 Ecology, Lummi Nation, and the United States. The addresses are set forth in the Certificate  
16 of Service portion of the form.  
17

18 7. Although you are required to include your e-mail address on your objection, this  
19 does not make you eligible to receive future communications from the Court or other  
20 parties by e-mail. To register for the Court’s e-filing system (CM/ECT), please see:  
21 <http://www.wawd.uscourts.gov/attorneys/cmecf>.  
22

23 8. The following table refers to Exhibit C and D listings or parcels. Exhibit C is a listing  
24 of parties withdrawing water from the Washington State allocation of water at the time of  
25 the 2007 Lummi Decree. Exhibit D is a listing of well registrations receiving water from the  
26 state allocation at the time of the 2007 Lummi Decree. The Department of Ecology has  
27



1 provided the Federal Water Master with updates to these exhibits that are set forth in the  
2 following recommendations.

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

5 The Federal Water Master MOVES the Court to make the following corrections to  
6 the Service List for this case, No. C01-0047Z.  
7

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
1	<b>Boyd, Gerald R.</b>  D19-23	<i>Status:</i> On existing Service List; Dep't of Ecology reports Gerald R. Boyd is deceased; his interests in D19-23 have apparently transferred to his widow, Lois Boyd  <i>Service List Address:</i> Gerald R. Boyd 787 Lange Road Bellingham, WA 98226  <i>New Name &amp; Address:</i> Lois Boyd 2240 Main Street, Apt. 105 Ferndale, WA 98248  <i>Motion:</i> Delete Gerard R. Boyd from Service List; add Lois Boyd to Service List
2	<b>Buecking, Amy I.</b>	<i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information  <i>Service List Address:</i> Amy I. Buecking 2618 Michigan St. Bellingham, WA 98226-4039  <i>Motion:</i> Delete Amy I. Buecking from Service List
3	<b>Buecking, Timothy</b>	<i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information  <i>Service List Address:</i>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p>Timothy Buecking 2618 Michigan St. Bellingham, WA 98226-4039</p> <p><i>Motion:</i> Delete Timothy Buecking from Service List</p>
4	<b>Gallery, Pat</b>	<i>See Reference No. 22</i>
5	<p><b>Hanson, Gloria</b>  2646 Mackenzie Road</p>	<p><i>Status:</i> Gloria Hanson and Sharon Perez are on the Service List but were ordered in last year's Annual Report (p. 20, Ref. No. 10) to "provide information to the Master, no later than June 1, 2017, justifying why they should be retained on the Service List (<i>i.e.</i>, identification of the allocation or well registration and associated property description)." Dep't of Ecology reports that Hanson contacted the department on 7/7/16 and indicated she had sold the property and did not have an allotment of water under the State's allocation. No communication has been received from Perez. If Hanson had no allocation under the Settlement Agreement, no allocation could be transferred to Perez.</p> <p><i>Service List Address:</i> Gloria Hanson P.O. Box 1104 Bellingham, WA 98227</p> <p><i>Transferee's Address:</i> Sharon Perez 2756 Cagey Rd. Bellingham, WA 98226-9287</p> <p><i>Transferee c/o Property Address:</i> Sharon Perez 2646 Mackenzie Road Bellingham, WA 98226</p> <p><i>Motion:</i> Delete Gloria Hanson and Sharon Perez from Service List</p>
6	<b>Higginson, Lesli M.</b>	<p><i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</p> <p><i>Service List Address:</i> Lesli M. Higginson 2115 Postal Avenue</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p>Bellingham, WA 98226</p> <p><i>Motion:</i> Delete Lesli M. Higginson from Service List</p>
7	<b>Hills, Laura</b>	<p><i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</p> <p><i>Service List Address:</i>            Laura Hills            15320 28<sup>th</sup> Dr., S.E.            Mill Creek, WA 98012</p> <p><i>Motion:</i> Delete Laura Hills from Service List</p>
8	<b>Hughes, Douglas D.</b>  D1 & D2  3791 Haxton Way	<p><i>Status:</i> Dep't of Ecology reports change of address for Douglas D. Hughes</p> <p><i>Service List Address:</i>            Douglas D. Hughes            3791 Haxton Way            Bellingham, WA 98226-8300</p> <p><i>New Address:</i>            Douglas D. Hughes            3730 N.E. 17<sup>th</sup> Ave.            Pompano Beach, FL 33064</p> <p><i>Motion:</i> Update Service List with new address</p>
9	<b>Jeffries, Harold J.</b>	<p><i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</p> <p><i>Service List Address:</i>            Harold J. Jeffries            4768 Lake Terrell Road            Ferndale, WA 98248</p> <p><i>Motion:</i> Delete Harold J. Jeffries from Service List</p>
10	<b>Jeffries, Jennifer</b>	<p><i>Status:</i> Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</p> <p><i>Service List Address:</i>            Jennifer Jeffries</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		4768 Lake Terrell Road Ferndale, WA 98248  <i>Motion: Delete Jennifer Jeffries from Service List</i>
11	<b>Lane, Carl D., Sr.</b>	<i>See Reference Nos. 28 &amp; 29</i>
12	<b>Lane, Carol A.</b>	<i>See Reference Nos. 28 &amp; 29</i>
13	<b>Linds, Travis</b>	<i>See Reference Nos. 30 &amp; 31</i>
14	<b>Lynette, Ethan</b>	<i>See Reference No. 23</i>
15	<b>Lynette, Hatai</b>	<i>See Reference No. 23</i>
16	<b>McCaffrey, Edward A.</b>	<i>Status: Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</i>  <i>Service List Address:</i> Edward A. McCaffrey 1493 Island View Dr. Bellingham, WA 98225-0539  <i>Motion: Delete Edward A. McCaffrey from Service List</i>
17	<b>Mccord, Chuck R.</b>	<i>Status: Annual Report for 2015-16 returned as undeliverable; Dep't of Ecology has no updated contact information</i>  <i>Service List Address:</i> Chuck R. Mccord 3365 Robertson Road Bellingham, WA 98226  <i>Motion: Delete Chuck R. Mccord from Service List</i>
18	<b>Nichols, Mark</b>	<i>See Reference Nos. 32 &amp; 33</i>
19	<b>Olsen, Luella</b>  D 33 & D34 (expired)	<i>Status: Olsen was on an earlier Service List but Dep't of Ecology reported that Olsen's preliminary well registrations had expired; based on that information, the Master moved in the 2014-15 Annual Report that Olsen be removed from the Service List and, with no opposition, the Court granted that motion; Olsen, however, has recently filed a change of address pleading with the Court</i>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p><i>Name &amp; Address:</i> Luella Olsen 2327 Henry St. Bellingham, WA 98225</p> <p><i>Motion:</i> Olsen must provide written information to the Master, no later than June 1, 2018, justifying why she should be returned to the Service List</p>
20	<b>Perez, Sharon</b>	<i>See Reference No. 5</i>
21	<b>Rasmussen, Anne</b>	<i>See Reference No. 24</i>
22	<b>Roedell, Gary</b>  C19  2163 Lummi Shore Rd.	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports Gary Roedell is deceased; his interest in C19 has apparently passed to Pat Gallery and others with Gallery designated as contact person for new owners</p> <p><i>Service List Address:</i> Gary Roedell 2163 Lummi Shore Rd. Bellingham, WA 98226-9243</p> <p><i>New Name &amp; Address:</i> Pat Gallery 310 Palm St., #1 Bellingham, WA 98225</p> <p><i>Motion:</i> Delete Gary Roedell from Service List; add Pat Gallery to Service List</p>
23	<b>Schnobrich, William C.</b>  C64  3001 Haxton Way	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports William C. Schnobrich is deceased; his interest in C64 has apparently transferred to Ethan &amp; Hatai Lynette</p> <p><i>Service List Address:</i> William C. Schnobrich P.O. Box 3163 Ferndale, WA 98248</p> <p><i>New Name &amp; Address:</i> Ethan &amp; Hatai Lynette 2010 Samish Crest Way Bellingham, WA 98229-4909</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<i>Motion:</i> Delete William C. Schnobrich from Service List; add Ethan & Hatai Lynette to Service List
24	<b>Shields, Martha</b>  C13  2143 Lummi Shore Rd.	<i>Status:</i> Dep't of Ecology reports Martha Shields is deceased and her interest in C13 has apparently transferred to Anne Rasmussen as surviving daughter  <i>Service List Address:</i> Martha Shields c/o Anne Rasmussen 4496 Rural Ave. Bellingham, WA 98226  <i>New Name &amp; Address:</i> Anne Rasmussen 4496 Rural Ave. Bellingham, WA 98226  <i>Motion:</i> Delete Martha Shields from Service List; add Anne Rasmussen to Service List
25	<b>Sitka, Stephanie</b>	<i>See Reference Nos. 34 &amp; 35</i>
26	<b>Snead, David E.</b>  D3  2955 Leeway Way	<i>Status:</i> On existing Service List; Dep't of Ecology reports David E. Snead is deceased; his interest in D3 has apparently transferred to Ruth L. Snead, who is also on existing Service List  <i>Service List Address:</i> David E. Snead 2955 Leeway Way Bellingham, WA 98266-8601  <i>Motion:</i> Delete David E. Snead from Service List
27	<b>Snead, Ruth</b>	<i>See Reference No. 26</i>
28	<b>Spring, Jerome L.</b>  C5  2092 Postal Ave., aka 2117 Postal Ave.	<i>Status:</i> Dep't of Ecology reports, based on the Whatcom County Assessor's records, that the property has been transferred to new owners  <i>Service List Address:</i> Jerome L. Spring c/o Landmark Attn: Charise Robbins 3800 Byron Ave Ste 112 Bellingham, WA 98229-2877

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p><i>New Name &amp; Address:</i>  Carol A. &amp; Carl D. Lane, Sr.  2106 Lummi View Dr.  Bellingham, WA 98226-7206</p> <p><i>Motion:</i> Delete Jerome L. Spring from Service List; add Carol A. &amp; Carl D. Lane, Sr. to Service List</p>
29	<p><b>Spring, Marisela R.</b></p> <p>C5</p> <p>2092 Postal Ave., aka  2117 Postal Ave.</p>	<p><i>Status:</i> Dep't of Ecology reports, based on the Whatcom County Assessor's records, the property has been transferred to new owners</p> <p><i>Service List Address:</i>  Marisela R. Spring  c/o Landmark  Attn: Charise Robbins  3800 Byron Ave. Ste. 112  Bellingham, WA 98229-2877</p> <p><i>New Name &amp; Address:</i>  Carol A. &amp; Carl D. Lane, Sr.  2106 Lummi View Dr.  Bellingham, WA 98226-7206</p> <p><i>Motion:</i> Delete Marisela R. Spring from Service List; add Carol A. &amp; Carl D. Lane, Sr. to Service List</p>
30	<p><b>Tanner, Wanda</b></p> <p>D46, E1 &amp; E4</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports transfer of registrations to Travis Linds; Wanda Tanner retains other well registrations under the Settlement Agreement</p> <p><i>New Name &amp; Address:</i>  Travis Linds  2145 Ulrich Road  Ferndale, WA 98248-9120</p> <p><i>Motion:</i> Retain Wanda Tanner on Service List; add Travis Linds to Service List</p>
31	<p><b>Tanner, William</b></p> <p>D46, E1 &amp; E4</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports transfer of registrations to Travis Linds; William Tanner retains other well registrations under the Settlement Agreement</p> <p><i>New Name &amp; Address:</i></p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p>Travis Linds 2145 Ulrich Road Ferndale, WA 98248-9120</p> <p><i>Motion:</i> Retain William Tanner on Service List; add Travis Linds to Service List</p>
32	<p><b>Vermillion, Kevin</b>  C45 &amp; D39  2636 Shorewood Lane</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports transfer of allocation to Mark Nichols; Vermillion does not have any other allocation or well registration under the Settlement Agreement</p> <p><i>Service List Address:</i> Kevin Vermillion 2636 Shorewood Lane Bellingham, WA 98226-9224</p> <p><i>New Name &amp; Address:</i> Mark Nichols 2636 Shorewood Lane Bellingham, WA 98226-9224</p> <p><i>Motion:</i> Delete Kevin Vermillion from Service List; add Mark Nichols to Service List</p>
33	<p><b>Vermillion, Mary</b>  C45 &amp; D39  2636 Shorewood Lane</p>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports transfer of allocation to Mark Nichols; Vermillion does not have any other allocation or well registration under the Settlement Agreement</p> <p><i>Service List Address:</i> Mary Vermillion 2636 Shorewood Lane Bellingham, WA 98226-9224</p> <p><i>New Name &amp; Address:</i> Mark Nichols 2636 Shorewood Lane Bellingham, WA 98226-9224</p> <p><i>Motion:</i> Delete Mary Vermillion from Service List; add Mark Nichols to Service List</p>
34	<p><b>Weilage, Kathryn K.</b>  C71</p>	<p><i>Status:</i> On existing Service List; based on landowner's communication, Dep't of Ecology reports transfer of property and allocation; Weilage does not have any</p>



REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
	3021 Kelbay Rd.	<p>other allocation or registration under Settlement Agreement</p> <p><i>Service List Address:</i> Kathryn K. Weilage 3021 Kelbay Rd. Bellingham, WA 98226</p> <p><i>New Name &amp; Address:</i> Stephanie Sitka 3021 Kelbay Rd. Bellingham, WA 98226-9200</p> <p><i>Motion:</i> Delete Kathryn K. Weilage from Service List; add Stephanie Sitka to Service List</p>
35	<p><b>Weilage, Mark</b></p> <p>C71</p> <p>3021 Kelbay Rd.</p>	<p><i>Status:</i> On existing Service List; based on landowner's communication, Dep't of Ecology reports transfer of property and allocation; Weilage does not have any other allocation or registration under Settlement Agreement</p> <p><i>Service List Address:</i> Mark Weilage 3021 Kelbay Rd. Bellingham, WA 98226</p> <p><i>New Name &amp; Address:</i> Stephanie Sitka 3021 Kelbay Rd. Bellingham, WA 98226</p> <p><i>Motion:</i> Delete Mark Weilage from Service List; add Stephanie Sitka to Service List</p>

### NOTICE OF TIME FOR OBJECTION

Paragraph 11(a) of the Court's November 2007 Order and Judgment (as amended) provides that objections to the recommendations set forth in the foregoing table must be filed within 30 days of service of the Annual Report containing this table. For purposes of this Annual Report, objections must be filed and served by Tuesday, August 1, 2017.

1 DATED June 30, 2017.

2  
3 Respectfully submitted,

4 */s/John E. Thorson*

5 \_\_\_\_\_  
6 John E. Thorson  
7 Federal Water Master  
8 Lummi Decree  
9 376 River Road West  
10 Plains, MT 59859  
11 (406) 826-0500  
12 johnethorson@mac.com  
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1 **ATTACHMENT C: PROPOSED COURT ORDER**

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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

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

NO. C01-0047Z

11 Plaintiff,

12 LUMMI NATION,

[PROPOSED] ORDER

13 Plaintiff-Intervenor,

14 v.

15 STATE OF WASHINGTON,  
16 DEPARTMENT OF ECOLOGY et al.

17 Defendants.  
18  
19

20 No [Certain] objection[s] to Attachment B, the Federal Water Master's  
21 Recommendations for Updating the Service List, set forth in the Master's 2016-2017  
22 Annual Report (June 30, 2017) (Docket No. \_\_\_\_), having been filed or received within the  
23 time specified by Paragraph 11(a) of the Court's November 2007 Order and Judgment (as  
24 amended), the Court now enters the following Order:  
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1 The Federal Water Master's Recommendations for Updating the Service List, set  
2 forth as Attachment B to the Master's 2016-2017 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 2017.

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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, 2017]

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 2016-2017 Annual  
Report (June 30, 2017).

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]:



1  
2 I request the Court to correct the Service List in accordance with the information I  
3 have provided.

4  
5 Respectfully submitted,

6 DATED: July \_\_\_\_, 2017

7 *Your Signature:* \_\_\_\_\_

8 *Name (Printed or Typed):* \_\_\_\_\_

9 *Address:* \_\_\_\_\_

10 *City, State or Province:* \_\_\_\_\_

11 *Zip or Postal Code:* \_\_\_\_\_

12 *Country (if other than US):* \_\_\_\_\_

13 *Telephone No.:* \_\_\_\_\_

14 *E-Mail Address:* \_\_\_\_\_

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20 **Certificate of Service**

21 I certify that, on July \_\_\_\_, 2017, I submitted the foregoing Objection for filing in the  
22 above-captioned matter by first-class mail addressed to the Clerk of Court as  
23 follows:

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

27 I further certify that, on July \_\_\_\_, 2017, I served copies of the foregoing Objection  
28 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

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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:* \_\_\_\_\_