

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 2020-  
2021; 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

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

8 The Court appointed the undersigned as Water Master on June 10, 2008, and this is  
9 the Water Master’s Annual Report for fiscal year 2020-2021. This report also includes a  
10 motion to the Court to approve changes to the Service List for this case.

### 12 **REQUESTS FOR ACTION; DECISIONS & ORDERS ISSUED**

13 Since his appointment in 2008, the Water Master has opened 29 formal proceedings;  
14 nine were brought by the Washington Department of Ecology to enforce administrative  
15 penalties; 18 were brought by the Master, on his own motion, to collect allegedly unpaid  
16 annual Eligible Landowner Fees; one involved a water user’s appeal of a Department of  
17 Ecology action; and one was opened by the Master, on his own motion, to recommend  
18 improvements to the Service List.

20 Of the 29 formal proceedings, 27 have been closed by dismissal, settlement, or  
21 judgment. At present, two proceedings remain open pending adjudication or some  
22 performance by the parties to those proceedings. The complete docket of proceedings may  
23 be found on the Master’s website (*infra*).

### 26 **ENFORCEMENT ACTIONS TAKEN**

27 On July 2, 2010, the Court adopted a Supplemental Judgments provision as an

1 amendment to the Court's original Order and Judgment (Nov. 20, 2007). The Water Master  
2 has used this procedure in 15 formal proceedings (WM 09-03, WM 09-06, WM 10-01, WM  
3 10-02, WM 10-03, WM 11-01, WM 11-04, WM 11-05, WM 11-06, WM 12-01, WM 13-01,  
4 WM 13-02, WM 13-03, WM 13-05, and WM 13-06) to secure Supplemental Judgments for  
5 amounts due the Department of Ecology for unpaid penalties and filing fees, due the Clerk  
6 of the Court in reimbursement of the Master's fees and expenses incurred in proceedings,  
7 or due the Clerk in payment of annual Eligible Landowner Fees. These judgments or  
8 settlements have resulted in the recovery of fees and expenses in six of the proceedings  
9 (WM 09-03, WM 09-06, WM 10-01, WM 13-03, WM 13-04, and WM 13-05). The judgments  
10 create judgment liens in King County and abstracts of judgment are selectively recorded  
11 (depending on prospects for recovery) in Whatcom County.  
12  
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#### 14 **FINANCIAL MATTERS**

15  
16 In paragraph 6 of its Order Appointing Water Master (June 10, 2008), the Court  
17 directed the Clerk of the Court "to establish an account in the registry of the Court into  
18 which all monies paid pursuant to the Settlement Agreement shall be deposited. Any  
19 compensation or reimbursements to be paid to the Water Master shall be made from said  
20 account."  
21

22 The Clerk has maintained the required account since August 2008. Income has  
23 consisted of payments from the Lummi Nation, Washington Department of Ecology,  
24 individual water users, reimbursement of the Master's fees and expenses incurred in  
25 formal proceedings, filing fees, and bank interest. Based on the May 11, 2021, report of the  
26 Financial Specialist for the District Court Clerk, the June 30, 2021, account balance is  
27 anticipated to be approximately \$222,637.  
28

1 A summary of account income and expenditures for the July 1, 2020, to June 30, 2021,  
 2 period (projected) is as follows:

Item	Subtotal Amount	Amount
<i>July 1, 2020, Balance</i>		\$233,994
<i>Income</i>		
Lummi Nation	\$0 (1-year waiver)	
Department of Ecology	0	
Landowner Payments	0 (1-year waiver)	
Filing Fees	15	
Interest (inc. May & June est.)	109	
Satisfied judgments	1378	
<i>Total Income</i>		1502
<i>Expenditures</i>		(12,859)
<b>June 30, 2021, Balance (projected)</b>		<b>\$222,637</b>

12 The Settlement Agreement specifies that the Lummi Nation and the “state  
 13 defendants” each shall pay 50% of the budgeted costs of the Water Master’s office. The  
 14 “state defendants” are the Department of Ecology and Eligible Landowner households  
 15 having a right to water from the allocation administered by the Department. Settlement  
 16 Agreement § IV(G)(1).  
 17

18 Due to the Cobvid-19 pandemic, the Court last year approved the waiver of the 2020-  
 19 21 water user fees and ordered that those fees (calculated as \$7914 for the Lummi Nation  
 20 and state water users) be *conclusively deemed paid* so the Lummi Nation and state water  
 21 users would not have to makeup this amount in future years. *See* Federal Water Master’s  
 22 Annual Report for Fiscal Year 2019-2020 at 9 (June 30, 2020).  
 23

24 As in previous years, the eleven months of the 2020-2021 fiscal year have been  
 25 peaceful; but the Water Master has undertaken work and incurred expenses in contested  
 26 cases, financial and administrative matters (including ongoing maintenance of the  
 27

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

4 The table set forth in Attachment A (with estimated June data) reflects the Master's  
5 time (in dollars at \$200 per hour) and expenses for this fiscal year and the previous twelve  
6 years. The average monthly fee billed during 2020-2021 has been \$808 and the average  
7 monthly expenses have been \$185.<sup>1</sup>

### 9 **WATER MASTER BUDGET 2021-2022**

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

15 The required discussions were held, and the Department of Ecology and the Lummi  
16 Nation agreed on a final Water Master budget for fiscal year July 1, 2021, to June 30, 2022.

17 In its August 7, 2008, order, the Court set an initial annual budget of \$100,000 for the  
18 Water Master, and this amount was adopted by agreement for subsequent years. In view of  
19 the relatively modest annual expenditures since 2008, the Water Master recommended in  
20 2017 a reduced budget of \$50,000 for the 2017-2018 fiscal year; and the Lummi Nation  
21 and Department of Ecology agreed with that recommendation. The same budget was also  
22 set for 2020-2021. The Lummi Nation and Department of Ecology have also agreed on a

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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 \$50,000 budget for the upcoming 2021-2022 fiscal year. The Water Master's hourly rate  
2 will remain unchanged at \$200 per hour and he will continue his efforts to minimize his  
3 time and costs. This agreement has been communicated to the Court (letter on Water  
4 Master's website).

5  
6 As mentioned, based on the Clerk's Financial Specialist report of May 11, 2021, the  
7 anticipated June 30, 2021, balance in the Water Master's account will be \$222,637 (as  
8 adjusted; *see p. 4, supra*). Since this figure is less than the adjusted \$249,400 ceiling  
9 anticipated by the Settlement Agreement (*see following discussion*), the Lummi Nation and  
10 Eligible Landowners will need to pay collectively an additional amount for fiscal year 2021-  
11 2022, pursuant to the payment provisions set forth in sections IV(G)(1) & (2) of the  
12 Settlement Agreement.

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

19  
20 The U.S. Bureau of Economic Analysis maintains the Implicit Price Deflator, but  
21 Washington State's Economic and Revenue Forecast Council publishes annual reports of  
22 several inflation indices for the Seattle area. Council staff advises the use of Table A4.1,  
23 "Selected Inflation Indicators," found on p. 107 of the Council's *Washington State Economic*  
24 *and Revenue Forecast* (Mar. 2021).<sup>2</sup> According to Council staff, the "Price Deflator" increase  
25  
26

27  
28 <sup>2</sup> Available at

<https://erfc.wa.gov/sites/default/files/public/documents/publications/mar21pub.pdf>.

1 over a series of years is calculated by determining the difference between the index figures  
2 for the beginning and ending years and expressing that change as a percentage of increase  
3 or decrease over the base year. For Lummi Decree purposes, the 2006<sup>3</sup> index is 0.892 and  
4 the 2020 index is 1.112 (the 2021 index is not used since it is a forecast). The percentage of  
5 change 2006-2019 is 24.7%.

7 Thus, to comply with section IV(G)(2) of the Settlement Agreement, the ceiling on the  
8 Water Master's account should be adjusted by 24.7% to \$249,400 (as compared to last  
9 year's \$246,000 ceiling).

### 11 PARTIES' FEES 2021-2022

12 A total of \$26,763 is necessary to bring the Water Master's account up to the  
13 maximum amount of \$249,400 allowed by Settlement Agreement section IV(G) and as  
14 adjusted for inflation as previously discussed (\$249,400 minus expected year-end balance  
15 of \$222,637). This amount, however, is reduced by (a) anticipated interest of \$110 on the  
16 funds maintained in the Water Master's account, and (b) credit of \$7914 for the waived  
17 2020-21 water user fees (*see p. 4, supra*). This leaves a balance of \$18,739 to be paid by  
18 the Lummi Nation and state water users. Of the \$18,739, the Lummi Nation would pay  
19 \$9370 (1/2 of \$18,739). Eligible Landowners would pay \$10,162 (1/2 of \$9370 plus \$792  
20 for collective underpayments by state water users during 2019-20).

23 The Department of Ecology reports 233 active state Eligible Landowner allocations.  
24 Dividing \$10,162 by 233 produces a fee of \$43.61, rounded to \$44, for the basic allocation.

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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 This is considerably less than the annual \$100 fee imposed when the Decree was first  
2 issued. The Department of Ecology would pay nothing for the 2021-2022 fiscal year (*see*  
3 examples set forth in section IV(G)(2) of Settlement Agreement).

4 The Court's August 7, 2008, order (in paragraph 3) specifies that "[i]n subsequent  
5 years [beyond 2008/2009], Lummi Nation shall pay its share of the Water Master budget  
6 on or before August 1st of the fiscal year." Similarly, the order (in paragraph 4) provides  
7 that the Department of Ecology will pay its share of the Water Master budget by August 1<sup>st</sup>  
8 (however, as discussed above, no Ecology payment is required for the 2020-2021 fiscal  
9 year) and also send Water Master fee notices to Eligible Landowners by August 1<sup>st</sup>. Eligible  
10 Landowners must pay their fees by November 1<sup>st</sup>.

### 14 **SERVICE LIST**

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

24 The Master has completed the ninth annual review of the Service List, based on the  
25 above procedure, and now recommends a series of corrections to the Service List set forth



1 in Attachment B to this Report. Recipients of this Annual Report are urged to examine  
2 Attachment B to determine whether a recommendation affects them. Attachment B  
3 provides explanatory information and the procedure for filing an objection if you believe  
4 the Master’s recommendations are incorrect. Attachment C is a proposed Court order for  
5 updating the Service List, and Attachment D is a preprinted Objection Form.  
6

7 **WEBSITE**

8 Pursuant to the Court’s direction, the Water Master established and maintains a  
9 website that provides information on how to initiate proceedings before the Master, the  
10 status of pending proceedings, a compendium of the Master’s claims for fees and expenses  
11 and the Court’s orders in response to those claims, and annual reports and service  
12 certificates. The website was substantially updated during 2019-2020. The Master’s  
13 website may be found at: [www.lummiwatermaster.com](http://www.lummiwatermaster.com).  
14  
15

16 **CONCLUSION**

17 I continue to appreciate the opportunity to work with the Court, the parties, counsel,  
18 and Court staff—all of whom have been helpful and cordial. I thank them for their  
19 assistance. I especially thank Kelly Hamilton of the Washington Department of Ecology for  
20 her assistance in identifying address changes and water allocation transfers.  
21

22 I hereby respectfully submit my annual report for 2020-2021 and move adoption of  
23 the recommendations for updating the Service List, as set forth in Attachment C with the  
24 accompanying Proposed Order, Attachment D.  
25  
26  
27  
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1 Dated: June 30, 2021.

2 */s/John E. Thorson*

3 John E. Thorson  
4 Federal Water Master – Lummi Decree  
5 376 River Road West  
6 Plains, MT 59859  
7 (406) 826-0500  
8 johnethorson@mac.com

9 **CERTIFICATE OF SERVICE**

10 The Certificate of Service of this Annual Report and all attachments has been filed  
11 separately with the Clerk of the Court. A copy of the Certificate may be reviewed on the  
12 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 2020-21)**

[Next page]

ATTACHMENT A: FEDERAL WATER MASTER EXPENDITURES BY FISCAL YEAR (2008-09 to 2020-21)														
Month	2008-09		2009-10		2010-11		2011-12		2012-13		2013-14		2014-15	
	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp
July	\$800	\$513	\$400	\$75	\$250	\$0	\$500	\$0	300	\$0	\$400	\$1	400	1
Aug.	200	0	300	39	500	10	950	27	700	0	700	14	100	5
Sept.	0	0	100	0	400	2	900	14	700	6	300	0	250	1
Oct.	400	100	200	0	200	0	800	9	600	0	650	2	200	0
Nov.	2400	542	500	0	200	0	200	0	750	8	600	25	200	0
Dec.	100	0	200	0	200	0	1000	0	200	0	200	0	200	0
Jan.	0	0	650	4	450	2	950	6	200	0	400	0	100	0
Feb.	600	130	0	0	450	6	950	2	800	11	600	5	100	0
Mar.	0	0	200	0	800	11	200	0	400	0	200	0	600	4
April	450	0	200	0	400	12	900	0	800	42	200	0	200	0
May	1000	16	400	0	400	49	1300	115	700	105	2000	7	1900	124
June	1300	176	2300	275	2300	289	2700	574	6,050	1,464	5000	867	4200	793
TOTAL	\$7,250	\$1,477	\$5,450	\$393	\$6,550	\$381	\$11,350	\$747	\$12,200	\$1,637	\$11,250	\$921	\$8,450	\$928
Average	\$604	\$123	\$454	\$33	\$546	\$32	\$946	\$62	\$1,017	\$136	\$938	\$77	\$704	\$77
2015-16														
Month	2015-16		2016-17		2017-18		2018-19		2019-20		2020-21			
	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp	Fees	Exp
July	200	0	0	0	200	0	100	0	0	0	600	0		
Aug.	200	0	0	0	0	0	100	0	300	104	200	0		
Sept.	300	2	200	2	0	0	100	0	0	0	0	0		
Oct.	600	0	0	0	0	0	0	0	0	0	300	25.68		
Nov.	0	0	600	0	0	0	300	102	0	0	1800	76.77		
Dec.	200	0	200	0	0	0	0	0	0	0	600	0		
Jan.	0	0	0	0	0	0	0	0	500	0	0	0		
Feb.	100	0	400	0	0	0	0	0	0	0	200	0		
Mar.	0	0	0	0	0	0	200	0	200	0	0	0		
April	100	0	0	0	200	0	0	0	200	0	0	0		
May	0	0	800	0	1400	0	200	0	1100	590	0	0		
June	5000	1298	4600	990	6900	1050	5900	862	6300	1067	6000	1750		
TOTAL	\$6,700	\$1,300	\$6,800	\$992	\$8,700	\$1,050	\$6,900	\$964	\$8,600	\$1,761	\$9,700	\$1,852		
Average	\$558	\$108	\$567	\$83	\$725	\$88	\$575	\$80	\$717	\$147	\$808	\$185		

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. Due to the timing requirement for the Annual Report, June 2021 is estimated and based on prior year.

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4 **ATTACHMENT B: SERVICE LIST RECOMMENDATIONS**  
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8 Judge Thomas S. Zilly  
9

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

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

NO. C01-0047Z

14 Plaintiff,

15 LUMMI NATION,

16 Plaintiff-Intervenor,

FEDERAL WATER MASTER'S  
RECOMMENDATIONS FOR UPDATING  
THE SERVICE LIST

17 v.

18 STATE OF WASHINGTON,  
19 DEPARTMENT OF ECOLOGY et al.

20 Defendants.  
21

22  
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 17, 2020,  
13 version of the Service List approved by the Court (Docket No. 1547) and maintained by the  
14 Court Clerk. You may review a copy of the Service List on the Master's website:  
15  
16 [www.lummiwatermaster.com](http://www.lummiwatermaster.com).

## 17 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 the August 17, 2020, Service List on  
24 the Master's website: [www.lummiwatermaster.com](http://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:

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 17, 2020, 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 Friday, July 30, 2021, 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  
11 recommendations set forth in the following table, you will need to prepare your own  
12 pleading for filing and 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 Friday, July 30, 2021. Be sure to keep a copy for  
10 your records. If you request the Clerk to return a conformed copy of your objection, please  
11 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

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

**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	<b>Carr, Marilyn J.</b>  C36	<p><i>Status:</i> On existing Service List; Marilyn Carr contacted Federal Water Master to report address change (<i>see</i> Ref. No. 2)</p> <p><i>Service List Name and Address:</i> Marilyn J. Carr 2245 Lummi Shore Road Bellingham, WA 98226</p> <p><i>New Name and/or Address:</i> Marilyn J. Carr 4194 Ankar Park Drive # 116 Bellingham WA 98226</p> <p><i>Motion:</i> Continue on Service List; update address as requested</p>
2	<b>Carr, Myron E.</b>  C36	<p><i>Status:</i> On existing Service List; Marilyn Carr contacted Federal Water Master to report address change (<i>see</i> Ref. No. 1)</p> <p><i>Service List Name and Address:</i> Myron E. Carr 2245 Lummi Shore Road Bellingham, WA 98226</p> <p><i>New Name and/or Address:</i> Myron E. Carr 4194 Ankar Park Drive # 116 Bellingham WA 98226</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<i>Motion:</i> Continue on Service List; update address as requested
3	<b>Dawson, Marlene</b>	<i>See Ref. No. 5</i>
4	<b>Dawson, Richard</b>	<i>See Ref. No. 5</i>
5	<b>Dawson, Anna J.</b>	<p><i>Status:</i> Kenneth G. Dawson and Anna J. Dawson are listed in the existing Service List although information from their daughter-in-law, Marlene Dawson, indicates they died on June 13, 2015, and September 30, 2016, respectively, and as confirmed by the public record. Ms. Dawson also reports the property is now owned by her and her husband, Richard Dawson. The Master apologizes for the mistake.</p> <p>The Dep't of Ecology, however, has no record of any Lummi Decree allocation at the apparent property address: 3109 Sunset Way, Bellingham, WA 98226.</p> <p>Richard and Marlene Dawson are requested to provide any additional information on this issue to the Dep't of Ecology (contact Kelly Hamilton, (360) 255-4385) or by filing an objection to this report as described in the above instructions.</p> <p><i>Service List Name and Address:</i>  Anna J. Dawson  3109 Sunset Way  Bellingham, WA 98226</p> <p>Kenneth G. Dawson  3109 Sunset Way  Bellingham, WA 98226</p> <p><i>New Name and/or Address:</i>  Marlene Dawson  4029 Salt Springs Drive  Ferndale, WA 98248</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p>Richard Dawson 4029 Salt Springs Drive Ferndale, WA 98248</p> <p>Marlene Dawson 3109 Sunset Way Bellingham, WA 98226</p> <p>Richard Dawson 3109 Sunset Way Bellingham, WA 98226</p> <p><i>Motion:</i> Delete Kenneth G. Dawson and Anna J. Dawson from the Service List. Pending resolution of the allocation question, include Richard Dawson and Marlene Dawson on the Service List using the Ferndale address.</p>
6	<b>Dawson, Kenneth G.</b>	<i>See</i> Ref. No. 6
7	<b>Gerald R. &amp; Lois M. Boyd Revocable Trust</b>  D19-21, D23	<p><i>Status:</i> On Existing Service List; Dept' of Ecology reports the exhibit numbers for the trust's allocations were incorrect in the Federal Water Master's 2019-20 Annual Report; they should be: D19-21, D23 &amp; E3</p> <p><i>Service List Name and Address:</i> Gerald R. &amp; Lois M. Boyd Revocable Trust 7178 Dahlberg Road Ferndale, WA 98248</p> <p><i>New Name and/or Address:</i> NA</p> <p><i>Motion:</i> Correct the clerical error in 2019-20 Annual Report</p>
8	<b>Madsen, Kent</b>  C79	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports property is now owned by Michael Heintz and Kristine A. Heintz, who are already on Service List</p> <p><i>Service List Name and Address:</i> Kent Madsen</p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		P.O. Box 1423 Ferndale, WA 98248  <i>New Name and/or Address: NA</i>  <i>Motion: Delete Kent Madsen from Service List</i>
9	<b>Meyers, Mark</b>	<i>See Ref. No. 10</i>
10	<b>Oliver, Brian N.M.</b>  C60 2965 Haxton Way Bellingham, WA 98226	<i>Status: On existing Service List; Annual Report for 2019-20 returned as undeliverable; Dep't of Ecology reports the property has been transferred to Vannessa Oliver and Mark Meyers</i>  <i>Service List Name and Address:</i> Brian N.M. Oliver 2965 Haxton Way Bellingham, WA 98226  <i>New Name and/or Address:</i> Vannessa Oliver 1051 Lake Rd. Bellingham, WA 98226  Mark Meyers 1051 Lake Rd. Bellingham, WA 98226  <i>Motion: Delete Brian N.M. Oliver from Service List; add Vannessa Oliver and Mark Meyers to Service List</i>
11	<b>Oliver, Vannessa</b>	<i>See Ref. No. 10</i>
12	<b>Stoll, John</b>	<i>Status: On existing Service List; Dep't of Ecology reports an updated mailing address (see Ref. No. 13)</i>  <i>Service List Name and Address:</i> John Stoll 2914 171 <sup>st</sup> Pl., S.E. Bothell, WA 98012

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p><i>New Name and/or Address:</i> John Stoll 2163 Lummi Shore Rd. Bellingham, WA 98226</p> <p><i>Motion:</i> Continue on Service List; update address as provided by Dep't of Ecology</p>
13	<b>Stoll, Nancy</b>	<p><i>Status:</i> On existing Service List; Dep't of Ecology reports an updated mailing address (<i>see</i> Ref. No. 12)</p> <p><i>Service List Name and Address:</i> Nancy Stoll 2914 171<sup>st</sup> Pl., S.E. Bothell, WA 98012</p> <p><i>New Name and/or Address:</i> Nancy Stoll 2163 Lummi Shore Rd. Bellingham, WA 98226</p> <p><i>Motion:</i> Continue on Service List; update address as provided by Dep't of Ecology</p>
14	<b>Weinberg, Mark R.</b>	<p><i>Status:</i> On existing Service List; Annual Report for 2019-20 returned as undeliverable; Dep't of Ecology has no updated contact information</p> <p><i>Service List Name and Address:</i> Mark R. Weinberg P. O. Box 28146 Bellingham, WA 98228</p> <p><i>New Name and/or Address:</i> None available</p> <p><i>Motion:</i> Delete Mark R. Weinberg from Service List</p>
15	<b>Wylie, Scott E.</b>	<p><i>Status:</i> On existing Service List; Annual Report for 2019-20 returned as undeliverable; Dep't of Ecology reports an updated mailing address (<i>see</i> Ref. No. 16)</p> <p><i>Service List Name and Address:</i></p>

REF. #	NAME (Any Ex. C or D listing)	STATUS, INFORMATION & MOTION
		<p>Scott E. Wylie 19167 E. Front St. Linden, CA 95236-9528</p> <p><i>New Name and/or Address:</i> Scott E. Wylie 2209 Lummi Shore Rd Bellingham, WA 98226</p> <p><i>Motion:</i> Continue on Service List; update address as provided by Dep't of Ecology</p>
16	<b>Wylie, Denise B.</b>	<p><i>Status:</i> On existing Service List; Annual Report for 2019-20 returned as undeliverable; Dep't of Ecology reports an updated mailing address (<i>see</i> Ref. No. 15)</p> <p><i>Service List Name and Address:</i> Denise B. Wylie 19167 E. Front St. Linden, CA 95236-9528</p> <p><i>New Name and/or Address:</i> Denise B. Wylie 2209 Lummi Shore Rd Bellingham, WA 98226</p> <p><i>Motion:</i> Continue on Service List; update address as provided by Dep't of Ecology</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 Friday, July 30, 2021.

1 DATED June 30, 2021.

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





1 The Federal Water Master's Recommendations for Updating the Service List, set  
2 forth as Attachment C to the Master's 2020-2021 Annual Report, are approved [with the  
3 following changes: [Insert any changes)].  
4

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

8 IT IS SO ORDERED.

9 DATED this \_\_\_ day of August 2021.  
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12 Thomas S. Zilly  
13 United States District Judge  
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**ATTACHMENT D: OBJECTION FORM RE SERVICE LIST RECOMMENDATIONS  
(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 B to the  
Federal Water Master's Annual Report  
filed June 30, 2021]

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 2020-2021 Annual Report (June 30, 2021).

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



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 \_\_\_\_, 2021

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

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

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

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

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

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

14  
15 *Telephone No.:* \_\_\_\_\_

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

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19  
20 **Certificate of Service**

21 I certify that, on July \_\_\_\_, 2021, 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 \_\_\_\_, 2021, 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

Mr. Matthew T. Janz  
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Attorney General of Washington  
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*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:* \_\_\_\_\_