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IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

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PUBLIC UTILITY DISTRICT NO. 1 OF  
SNOHOMISH COUNTY, a Washington  
Municipal corporation; BARRY CHRISMAN and  
KERRY CHRISMAN, individually and as  
husband and wife,

*Appellants,*

v.

THE STATE OF WASHINGTON; SIERRA  
PACIFIC INDUSTRIES DBA SIERRA PACIFIC  
INDUSTRIES, INC., a California corporation;  
PRECISION FORESTRY, INC., a Washington  
corporation, and ABC CORPORATIONS 1-10,

*Respondents.*

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RESPONSE TO THE AMICUS CURIAE MEMORANDUM  
OF WASHINGTON FOREST PROTECTION ASSOCIATION  
ET. AL

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WAKEFIELD & KIRKPATRICK, PLLC

Dan Kirkpatrick, WSBA 38674  
Zach Parker, WSBA 53373  
Noelle Symanski, WSBA 57022  
David Ringold, WSBA 56756  
17544 Midvale Ave Suite 307  
Shoreline, WA 98133  
(206) 629-5489

Attorneys for Respondents Sierra Pacific Industries, Inc

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## TABLE OF AUTHORITIES

### Cases

*Pub. Util. Dist. No. 1 of Snohomish Cnty. V State*, \_\_ Wn. App. 2d \_\_, 534 P.3d 1220 (Wash. Ct. App. 2023).

**Page(s)**

### Statutes & Rules

RCW 76.09.330

### Other

Motion of Washington Forest Protection Association et. al for leave to file Amicus Curiae Memorandum

Amicus Curiae Memorandum of Washington Forest Protection Association et. al.

## I. INTRODUCTION

Respondent Sierra Pacific Industries, Inc. (“SPI”) joins the Amicus Curiae Memorandum filed by Washington Forest Protection Association et. al. in support of the Court granting review of *Pub. Util. Dist. No. 1 of Snohomish Cnty. v. State*, \_\_ Wn. App. 2d \_\_, 534 P.3d 1220 (Wash. Ct. App. 2023).

## II. IDENTITY AND INTEREST OF *AMICI*

SPI incorporates the identities and interests of the *amici* as detailed in the Motion for Leave to File Amicus Curiae Memorandum.

SPI urges the Court to consider the breadth and depth of the *amici* group and their interests. These *amici* consist of participants from all perspectives in forestry. Most notably the *amici* consist of groups whose primary purpose is the conservation of forest land, groups whose primary focus is on the economic interests of those participating in the forestry industry, and governmental stewards of forestry land whose primary

purpose is to best use forests for the public good. It is a rarity for a coalition with such diverse interests to come to an agreement, let alone all be so unified in the best way to legislate certain issues.

Not only do the *amici* consist of diverse groups, but the *amici* also consist of some of the most knowledgeable groups as to the effects of forestry regulation and to the intent behind RCW 76.09.330 and its grant of immunity which is the core issue in this case. Many of the *amici* played significant roles in the agreements, studies, and legislative process that directly led to the current language in RCW 76.09.330<sup>1</sup>.

### **III. STATEMENT OF THE CASE**

SPI Incorporates the statement of the case provided by the *amici* as well as the statement of the case in SPI's Petition for Review.

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<sup>1</sup> *See generally* Motion of Washington Forest Protection Association et. al for leave to file Amicus Curiae Memorandum., *See generally* Amicus Curiae Memorandum of Washington Forest Protection Association et. al., *See also id.* at 6.

#### **IV. RESPONSE TO *AMICI'S* ARGUMENT**

The *amici* provide a unique and thorough evaluation of the arguments present in this case. The *amici* have insider knowledge as to the purpose and policy issues related to RCW 76.09.330. They also have expertise as to the environmental and economic effects if *Pub. Util. Dist. No. 1 of Snohomish Cnty. v. State* is left to stand. The public's substantial interest in the Court reviewing this case is also demonstrated by the *amici* and the members of the public that they represent.

##### **A. The *Amici* have unique insight into the legislative process behind RCW 76.09.330.**

Washington enacted RCW 76.09.330 after years of legislative discussion, environmental and economic reporting, and compromise by interested parties.<sup>2</sup> The Washington Forest Protection Association and Washington Farm Forestry Association were directly involved with these processes and

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<sup>2</sup> *Id.*

were authors of the Timber/Fish/Wildlife Agreement and the Forest and Fish Report which led to legislation and establishment of RCW 76.09.330.<sup>3</sup> The knowledge provided by the *amici* on the intent and purpose of RCW 76.09.330 and the legislature shows that the Court of Appeals in *Pub. Util. Dist. No. 1 of Snohomish Cnty.* incorrectly interpreted RCW 76.09.330 and misunderstood the public policy determinations made by the legislature in implementing the statute.<sup>4</sup>

**B. The *Amici* are Forestry, Conservation, and Economic Experts.**

The *amici* are experts in the regulatory, economic, and environmental conditions at issue.<sup>5</sup> The arguments provided by the *amici* show that the opinion by the Court of Appeals is not only inconsistent with the regulatory framework the forestry industry has existed under for decades, but is also incompatible

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 16.

<sup>5</sup> *See generally* Motion of Washington Forest Protection Association et. al. For Leave to File Amicus Curiae Memorandum

with the other current regulatory conditions.<sup>6</sup> These arguments also show that the opinion of the court of appeals is inconsistent with itself.<sup>7</sup> *Amici* show that the goals of conservationists, the forestry industry, governmental custodians, and regulatory authorities would all be harmed by the Court of Appeals' incorrect interpretation of RCW 76.09.330.<sup>8</sup>

**C. The *Amici* Represent the Public's Substantial Interest in this Case.**

The Court may accept a petition for review when an issue of substantial public interest is at question.<sup>9</sup> The *amici* are a coalition that represent a wide range of people and are a proxy for the public's substantial interest.<sup>10</sup> This coalition represents family farmers, small and large forestland owners, timber

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<sup>6</sup> See Amicus Curiae Memorandum of Washington Forest Protection Association at 16.

<sup>7</sup> *Id.* at 16.

<sup>8</sup> *Id.* at 15.

<sup>9</sup> RAP 13.4 (b)(4)

<sup>10</sup> See generally Motion of Washington Forest Practices Association et. al. For Leave to File Amicus Curiae Memorandum.



products businesses, governmental custodians of land, perpetual conservation trusts with a focus on preserving nature for public use and benefit, and conservation non-profit organizations focusing on climate solutions and sustainability.<sup>11</sup> Most Washingtonians would have affinity with at least one of these groups. This coalition represents a large swath of the public and has shown that there is substantial interest in the Court's review of *Pub. Util. Dist. No. 1 of Snohomish Cnty.*

## V. CONCLUSION

SPI joins in the arguments presented by the Amicus Curiae Memorandum of Washington Forest Protection Association et. al. and request review be granted by the Court.

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<sup>11</sup> *See generally Id.*

This document contains 952 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 16th day of February, 2023.

WAKEFIELD & KIRKPATRICK

By 

Dan Kirkpatrick, WSBA 38674

Zach Parker, WSBA 53373

Noelle Symanski, WSBA 57022

David Ringold, WSBA 56756

Attorneys for respondent Sierra Pacific Industries, Inc.

CERTIFICATE OF SERVICE

I certify that on the date below I electronically filed the  
  
RESPONSE TO THE AMICUS CURIAE MEMORANDUM  
  
OF WASHINGTON FOREST PROTECTION ASSOCIATION  
  
ET. AL with the Clerk of the Court using the electronic filing  
  
system which caused it to be served on the following electronic  
  
filing system participant as follows:

Attorney for Appellants Barry and Kerry Chrisman:

Raymond J. Dearie, WSBA #28792  
Drew V. Lombardi, WSBA #56997  
Dearie Law Group 2025 First Avenue, Suite 1140  
Seattle, WA 98121  
[rdearie@dearielawgroup.com](mailto:rdearie@dearielawgroup.com)  
[dlombardi@dearielawgroup.com](mailto:dlombardi@dearielawgroup.com)  
[jzvers@dearielawgroup.com](mailto:jzvers@dearielawgroup.com)

Attorneys for Appellant Public Utility District No. 1 of Snohomish  
County:

Kit W. Roth, WSBA #33059  
Christopher Huck, WSBA #34104  
Goldfarb & Huck Roth Riojas, PLLC  
925 Fourth Ave, Suite 3950  
Seattle, WA 98104  
[roth@goldfarb-huck.com](mailto:roth@goldfarb-huck.com)  
[huck@goldfarb-huck.com](mailto:huck@goldfarb-huck.com) [ritchie@goldfarb-huck.com](mailto:ritchie@goldfarb-huck.com)  
[trinh@goldfarb-huck.com](mailto:trinh@goldfarb-huck.com)

Attorneys for Respondent Precision Forestry, Inc.:

Jeffrey P. Downer, WSBA #12625  
Donna M. Young, WSBA #15455  
Lee Smart, PS, Inc.  
1800 One Convention Place  
701 Pike St  
Seattle, WA 98101  
[jpd@leesmart.com](mailto:jpd@leesmart.com)  
[dmy@leesmart.com](mailto:dmy@leesmart.com)  
[kxc@leesmart.com](mailto:kxc@leesmart.com)  
[ttc@leesmart.com](mailto:ttc@leesmart.com)  
[pac@leesmart.com](mailto:pac@leesmart.com)

Attorneys for Respondent State of Washington:

Thomas E. Hudson, WSBA #46855  
Attorney for Respondent State  
Department of Natural Resources  
P.O. Box 40126  
Olympia, WA 98504-0126  
[Thomas.Hudson@atg.wa.gov](mailto:Thomas.Hudson@atg.wa.gov)  
[Sharon.Klein@atg.wa.gov](mailto:Sharon.Klein@atg.wa.gov)  
[Autumn.Nguyen@atg.wa.gov](mailto:Autumn.Nguyen@atg.wa.gov)  
[Annya.Ritchie@atg.wa.gov](mailto:Annya.Ritchie@atg.wa.gov)

DATED this 16<sup>th</sup> day of February, 2023.

*s/Erin Bour*  
\_\_\_\_\_  
Erin Bour Paralegal

# WAKEFIELD & KIRKPATRICK PLLC

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- sandy@fmwlegal.com
- thomas.hudson@atg.wa.gov
- torolyef@atg.wa.gov
- ttc@leesmart.com
- zparker@wakefieldkirkpatrick.com

### Comments:

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Sender Name: Daniel Kirkpatrick - Email: dkirkpatrick@wakefieldkirkpatrick.com  
Address:  
17544 MIDVALE AVE N STE 307  
SHORELINE, WA, 98133-4921  
Phone: 206-629-5489

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