

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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No. 94437-7

Court of Appeals No. 48423-4-II

(Thurston County Superior Court Cause No. 15-2-00527-5)

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JOHN ROSKELLEY, FAYETTE KRAUSE, SPOKANE AUDUBON  
SOCIETY, SPOKANE MOUNTAINEERS, AND THE LANDS  
COUNCIL,

Petitioners,

v.

WASHINGTON STATE PARKS AND RECREATION COMMISSION,  
AND MT. SPOKANE 2000,

Respondents.

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DECLARATION OF NATHAN G. SMITH RE MOTION FOR  
INJUNCTIVE RELIEF

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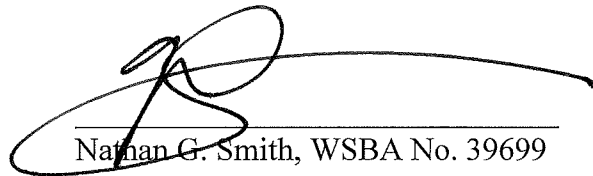
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Attorneys for Mt. Spokane 2000

I, Nathan G. Smith, declare under penalty of perjury under the laws of the State of Washington as follows:

1. I am over the age of 18 and competent to testify to the matters herein.
2. I am one of the attorneys of record for Mt. Spokane 2000.
3. Attached hereto as Exhibit "A" is a true and correct copy of the Declaration of John Nelson Re: Motion for Injunctive Relief previously prepared in response to the Lands Council's injunctive relief request made to the Court of Appeals, Division II, in the matter of *Roskelley, et al. v. Washington State Parks and Recreation Commission*, Case No. 48423-4-II.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Spokane, Washington this 18<sup>th</sup> day of July, 2017.

  
Nathan G. Smith, WSBA No. 39699

PROOF OF SERVICE

I CERTIFY that I served a copy of this document on all parties or their counsel of record on the date below as follows:

<p>David A. Bricklin          Claudia MacIntosh Newman          Bryan James Telegin          1424 Fourth Avenue, Suite 500          Seattle, WA 98101  <i>Counsel for Roskelley,          et al.</i></p>	<p><input type="checkbox"/> VIA U.S. MAIL  <input checked="" type="checkbox"/> VIA EMAIL  <u><a href="mailto:bricklin@bnd-law.com">bricklin@bnd-law.com</a></u>  <u><a href="mailto:cahill@bnd-law.com">cahill@bnd-law.com</a></u>  <u><a href="mailto:miller@bnd-law.com">miller@bnd-law.com</a></u>  <u><a href="mailto:newman@bnd-law.com">newman@bnd-law.com</a></u>  <u><a href="mailto:telegin@bnd-law.com">telegin@bnd-law.com</a></u>  <input type="checkbox"/> VIA OVERNIGHT MAIL  <input type="checkbox"/> VIA HAND DELIVERY</p>
<p>Jacob Earl Brooks          Bricklin &amp; Newman          25 West Main Avenue, Ste 234          Spokane, WA 99201-5090</p>	<p><input type="checkbox"/> VIA U.S. MAIL  <input checked="" type="checkbox"/> VIA EMAIL  <u><a href="mailto:brooks@bnd-law.com">brooks@bnd-law.com</a></u>  <input type="checkbox"/> VIA OVERNIGHT MAIL  <input type="checkbox"/> VIA HAND DELIVERY</p>
<p>Michael M. Young          Assistant Attorney General          P.O. Box 40100          1125 Washington Street          Olympia, WA 98504-0100  <i>Counsel for Washington          State Parks and          Recreation Commission</i></p>	<p><input type="checkbox"/> VIA U.S. MAIL  <input checked="" type="checkbox"/> VIA EMAIL  <u><a href="mailto:michaely@atg.wa.gov">michaely@atg.wa.gov</a></u>  <u><a href="mailto:nancyh5@atg.wa.gov">nancyh5@atg.wa.gov</a></u>  <u><a href="mailto:FWDEF@atg.wa.gov">FWDEF@atg.wa.gov</a></u>  <input type="checkbox"/> VIA OVERNIGHT MAIL  <input type="checkbox"/> VIA HAND DELIVERY</p>
<p>Rich Eichstaedt          University Legal Assistance          721 N. Cincinnati Street          P.O. Box 3528          Spokane, WA 99220</p>	<p><input type="checkbox"/> VIA U.S. MAIL  <input checked="" type="checkbox"/> VIA EMAIL  <u><a href="mailto:ricke@cforjustice.org">ricke@cforjustice.org</a></u>  <input type="checkbox"/> VIA OVERNIGHT MAIL  <input type="checkbox"/> VIA HAND DELIVERY</p>

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 19<sup>th</sup> day of July, 2017, at Spokane, Washington.

  
 Terry L. Strothman

**EXHIBIT A**  
**DECLARATION OF JOHN NELSON RE MOTION**  
**FOR INJUNCTIVE RELIEF**

**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

JOHN ROSKELLEY, FAYETTE  
KRAUSE, SPOKANE AUDUBON  
SOCIETY, SPOKANE  
MOUNTAINEERS, AND THE  
LANDS COUNCIL,

Appellants,

v.

WASHINGTON STATE PARKS  
AND RECREATION COMMISSION,  
AND MT. SPOKANE 2000,

Respondents.

No. 48423-4-II

DECLARATION OF JOHN  
NELSON RE: MOTION FOR  
INJUNCTIVE RELIEF

I, John Nelson, declare under penalty of perjury under the laws of the State of Washington as follows:

1. I am over the age of 18 and competent to testify to the matters herein.
2. I am the Patrol Director for the Mt. Spokane Ski Patrol ("Ski Patrol"). I have been a member of the Ski Patrol and National Ski Patrol for 24 years. Over the years, I have skied on nearly every "duty shift" that the Ski Patrol has operated, including weekdays, weekends, and nights.
3. The Ski Patrol trains, supports, and manages 135 volunteers who provide emergency first aid and transport to customers of the Mt. Spokane

Ski & Snowboard Park operated by Mt. Spokane 2000 ("MS2000"). The Ski Patrol has a long documented history of supporting Mt. Spokane State Park. It constructed Mt. Spokane State Park's first aid facility and donated it to the Washington State Parks and Recreation Commission. It has provided almost \$250,000 in upgrades to the facility recently.

4. The scope of the Ski Patrol's services include more than just providing first aid and mountain transport to guests within the maintained ski facility boundary. The Ski Patrol also provides search and rescue services for customers who get lost or hurt on the "backside," an area within Mt. Spokane State Park, but beyond the ski facility's current maintained boundaries. I understand that this area is commonly referred to as the Potential Alpine Ski Expansion Area ("PASEA").

5. The Ski Patrol has long supported MS2000's efforts to expand the facility into the PASEA as it provides an expanded and enhanced resource for the community's skiing and snowboarding public.

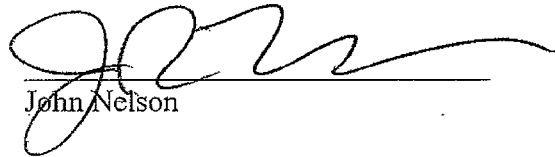
6. Beyond the enhancement of the facility, there is a much more pragmatic reason for the Ski Patrol's support of the expansion: Clearly, and indisputably, more and more people are venturing beyond MS2000's operating area and into the PASEA. As a consequence, the Ski Patrol is seeing a dramatic increase in the number of searches and rescues we are called upon to conduct in the PASEA.

7. When I first joined the Ski Patrol in 1991, we would see two or three "backside" searches or rescues a year. By contrast, we have already had over 30 *documented* searches to date in the 2015 to 2016 season, with over two months to go. This increase in the number of searches and rescues we are asked to conduct puts the members of the Ski Patrol (and hence their families) at great risk. The efforts of the Ski Patrol help reduce the potential for injury or loss of life for those venturing into the "backside," but the efforts only go so far to mitigate this potential.

8. As Director of the Ski Patrol, I feel a sense of responsibility for the safety and welfare of the Members we ask to conduct search and rescue activity in the PASEA. I strongly believe, and the Ski Patrol leadership supports the position, that the expansion of Mt. Spokane Ski & Snowboard Park as approved by the Washington State Parks and Recreation Commission can greatly reduce the potential for injury or loss of life in this increasingly utilized area.

9. The continued delay of MS2000 by the Appellants in this case subjects both the customers of Mt. Spokane Ski & Snowboard Park and the members of the Ski Patrol to unnecessary heightened risk which can be significantly reduced by allowing MS2000 to proceed with the expansion as soon as practicable.

Signed at Spokane, Washington this 1<sup>st</sup> day of February, 2016.



John Nelson



**KUTAK ROCK LLP**

**July 19, 2017 - 10:50 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 94437-7  
**Appellate Court Case Title:** John Roskelley, et al. v. State Parks and Recreation Commission, et al.  
**Superior Court Case Number:** 15-2-00527-5

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- newman@bnd-law.com
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- telegin@bnd-law.com

**Comments:**

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