No. 96575-7

SUPREME COURT
OF THE STATE OF WASHINGTON

SAVE TACOMA WATER, a Washington political committee,

Appellant,
vs.

ECONOMIC DEVELOPMENT BOARD FOR TACOMA-PIERCE COUNTY, et al.

Respondents,

and

JOHN AND JANE DOES 1-5 (Individual sponsors and officers of Save Tacoma Water), et al.

Defendants.

PORT OF TACOMA'S ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

Comes now Port of Tacoma ("Port"), through undersigned legal counsel Carolyn Lake and Seth Goodstein of Goodstein Law Group, PLLC.

II. SUMMARY OF WHY COURT SHOULD DENY REVIEW

Washington State's legislature authorized by statute that some types of cities and counties may optionally enact local initiative and referendum powers. The City of Tacoma ("Tacoma") did so, but most municipalities in Washington State do not offer citizen initiative and referendum. Local initiative powers do not exceed the legislative powers, functions, or duty of the City. Petitioner Save Tacoma Water ("STW") attempted to misuse Tacoma's initiative process by expressly attempting to rewrite, interpret and negate federal and state constitutions and laws.

Courts have established clear boundaries for the scope of the local initiative power: Initiatives must be legislative and not administrative in nature, initiatives cannot infringe on powers that the state legislature expressly provides to the municipal legislative body, and initiatives cannot conflict with state or federal law. This Court recently affirmed these principles in *Spokane Entrepreneurial Center v. Spokane Moves to Am. the Const.*, 185

Wn.2d 97, 369 P.3d 140 (2016). During the pendency of this appeal, at least one other Supreme Court of Washington opinion applied these well-worn principles to pre-election review of local initiatives. In this case the Superior Court properly utilized longstanding principles to strike the initiatives because they fell far out of bounds and even defied basic hierarchical principles of civic government. STW expressly acknowledges that the results below are supported by a century of precedent. STW here attempts to whitewash the initiatives' defects by declaring a constitutional controversy where none exists. This Court should deny review because the Trial Court's injunction, and the Court of Appeals ruling that affirmed, are precisely consistent with well-established precedent.

III. FACTS

In 2016, this Court issued its ruling in *Spokane Entrepreneurial Center*, 185 Wn.2d 97. The initiative that this Court examined in *Spokane* "attempt[ed] to regulate a variety of subjects outside this scope of authority, including administrative matters, water law, and constitutional rights". *Id*. at 201-2. This Court engaged in a thorough review of the limits of local initiative power, and then properly struck the initiative.

Tacoma has initiative powers like the City of Spokane. Pursuant to RCW § 35.22.200[1], the Tacoma Charter §§ 2.18-19 authorizes citizen initiative to amend its Charter and Ordinances. Under Tacoma's Charter, the City Attorney reviews the content of the initiative, provides feedback, and issues a ballot title to the proponents, which may be challenged in superior court. The power of initiative is not without limits. The Tacoma Charter § 2.18 subjects initiatives to "any limitations on topics in state law".

In reaction to a development proposed on land owned by the Port within Tacoma city limits, a political committee, STW, was formed. STW's objections to the development apparently included the possible water consumption. In response, STW circulated two local initiative petitions that sought to mandate a city-wide election as a condition of approval for projects that consumed certain amounts of water. CP 199, 202 *and see* Appendix A1-8 to *Pet*. The two, local initiative petitions were substantively identical. *Id*. STW explained for two initiative petitions were needed to change language in both the City Charter and the City Code. *Pet* 6. Local Initiative No. 5 sought amendment of Tacoma's Charter and local

[1]RCW § 35.22.200: "The legislative powers of a charter city shall be vested in a mayor and a city council, to consist of such number of members and to have such powers as may be provided for in its charter. The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city...."

Initiative No. 6 sought amendment of Tacoma's City's Code. *Id*. The initiatives contained recitals in favor of the initiatives, followed by alphabetized parts. *Id*. Part A requires a public vote to authorize TPU providing water service to certain applicants, and moreover puts building permit conditions to a public vote. Part B overrules state law "[t]o prevent the subsequent denial of the People's Right to Water Protection by state law preemption, all laws adopted by the State of Washington, and rules adopted by any state agency, shall be the law of the City of Tacoma only to the extent they do not violate [the Petition]. CP 199, 202. Part C overrides the Federal and State Constitutions by defining "personhood" and who has the right to file lawsuits in State and Federal Courts. CP 199, 202. Part D creates a new cause of action to enforce the Initiatives, with recovery of attorney's and other fees. CP 199, 202.

Tacoma provided a ballot title for the STW Initiatives, as required by Tacoma's Charter. STW solicited and apparently obtained signatures on its local initiatives. STW submitted signed local initiative petitions relating to the code amendment to the Pierce County Auditor for review in June 2016. CP 563.

On June 6, 2016, the Port, Tacoma Pierce County Chamber of Commerce ("Chamber"), and the Pierce County Economic

Development Board ("EDB") (collectively, "Respondents") filed Declaratory Judgement action pursuant to RCW Ch. 7.24, to determine the validity of the initiatives and to seek injunction on their placement on the November 2016 ballot. CP 1-31. The action named Tacoma, STW, STW officers and Pierce County Auditor as defendants. *Id*. Tacoma joined the Port, EDB and Chamber by filing a cross claim against STW and the Pierce County auditor, seeking the same relief as Port, EDB and Chamber. CP 131-67. Together, Tacoma, EDB, Chamber and the Port filed a Motion for Preliminary and Permanent Injection, with hearing date July 1, 2016. CP 318-64 CP 319, 321. STW filed a Motion to Dismiss, CP 595-606, which the Court heard on the same day. RP (Jul. 1, 2016).

The Superior Court granted Tacoma, the Port, EDB and Chamber's Motion to enjoin placement of the local initiatives on the ballot. CP 677-78. The Court declared the initiatives invalid as outside the scope of local initiative power. CP 674, 678, and that the initiatives conflicted with RCW § 42.20.260. The Court specifically found that the local initiative violated state laws concerning provision of water by cities, the Growth Management Act, and what powers cities may wield through their legislative bodies. CP 674-677. The Court also found that the local initiatives violated

Washington State decisional laws prohibiting municipal initiatives from delving into administration of existing laws. *Id*. The Court found that the initiatives could not be severed. CP 677. The Court denied STW's Motion to dismiss. CP 678.

Division II affirmed the Trial Court's rulings. Division II agreed that the local initiatives violated RCW § 43.20.260 mandate that Tacoma Public Utilities (TPU) furnish water to all applicants subject only to TPU's determination that doing so will be feasible[2] and declined to reach the local initiatives' many other maladies. *Slip. Op*. 10. During the pendency of this Appeal, this Supreme Court issued another opinion sustaining a pre-election challenges to a local initiative. *Protect Pub. Health v. King Cty*., __ Wn.2d__ (No. 95134-9, Dec. 6, 2018).

IV. ANALYSIS

"A petition for review will be accepted by the Supreme Court only...." if one or more of the four facts set forth at RAP 13.4(b) are met. The Court should decline review based upon STW's failure to meet or even brief the four applicable RAP 13.4(b) factors that could lead this Court to accept review.

[2] For more than 100 years, Tacoma has provided water service within its boundaries through its municipal utility, Tacoma Public Utilities. CP 259.

A. RAP 13.4(b) (1) and (2) Not Met Because STW Affirmatively Pled that Court Decisions Followed Extensive Precedent.

This Supreme Court may accept a petition for review if the decision of the Court of Appeals conflicts with a decision of the Supreme Court or if the decision of the Court of Appeals conflicts with a published decision of the Court of Appeals. RAP 13.4(b) (1)-(2). STW affirmatively informs that a century of law supports the outcome in this case, and then spends most of its brief asking the Court to overturn the extensive authorities, including the Court's recent, 2016 ruling in *Spokane*, 185 Wn.2d 97.

STW's acknowledgment of the precedent for prelection challenges to local initiatives defeats review under RAP 13.4(b)(1) and (2). "For one hundred years, this Court has authorized itself, and lower courts, to veto proposed legislation by the people of Washington State and its localities". *Pet*. 1. "This Court created pre-election substantive / subject matter review of citizen initiatives and authorized vote orders keeping duly-qualified initiatives off the ballot". *Petition* 4. STW specifically acknowledges this Court's recent opinion *in Spokane Entrepreneurial Ctr. v. Spokane Moves to Am. the Const.*, 185 Wn.2d 97, 369 P.3d 140 (2016) authorizes the outcome here. *Pet*. 1. STW described "repeated applications" of

the rules concerning pre-election challenges to municipal initiatives. *Pet*. 8-9. This Court's recent decisions in *Protect Pub. Health* further supports not disturbing the Appeals Court affirmation, and this Court's denial of review.

In sum, this Court is urged to deny STW's request for review under RAP 13.4(b)(1) or (2) because it is undisputed that a large body of precedent supports the Superior Court's Order and Division II's affirmation, and STW's briefing acknowledges the Superior Court and Court of Appeals followed the law in this case. *See Pet*. 9 n. 5.

B. RAP 13.4(b)(3) not Met Because STW Acknowledges that Municipal Initiatives are Statutorily Authorized and only Optionally Adopted by Cities; Constitutional Analysis Not Needed.

STW concedes the merits of the Trial Court's ruling under established law. STW asks this Court to break from significant precedent authorizing pre-election review of local initiatives. STW seeks to write new law, and this Court should decline to do so.

This Supreme Court may accept a petition for review if a significant question of law under the Constitution of the State of Washington or of the United States is involved. RAP 13.4(b)(3). This Court should not accept review under RAP 13.4(b)(3) because

STW greatly overstates the nexus between its local initiatives and the Washington State or United States Constitutions, which do not authorize or guarantee local initiatives. The Superior Court properly enjoined the initiatives on statutory grounds as outside the scope of the statute that authorizes local initiatives.

1. Basic Structure of Government Structure Prohibits Various Objectives of STW's Petition.

"The Constitution of the United States is the supreme law of the land". Wash. Const. Art I § 2. The relationship and authority of states and the federal government are governed by Article IV of the United States Constitution. States operate under a series of constitutions that "give way" to the provisions of the United States constitution. *State ex rel. Tanner v. Staeheli*, 112 Wash. 344, 349-50, 192 P. 991, 993-94 (1920). Cities are limited arms of the state. *Russell v. City of Grandview*, 39 Wn.2d 551, 553, 236 P. 2d 1061 (1951). Their powers are limited to compliance with state and federal law. *City of Port Angeles v. Our Water -Our Choice!*, 170 Wn.2d 1, 8, 239 P.3d 589 (2010). Wash. Const. art. XI, § 10 (city "shall be permitted to frame a charter for its own government, consistent with and subject to the Constitution and laws of this state"); Tacoma Charter Section 2.18 (initiatives are expressly subject to "any limitations on topics in state law"). The state

legislature grants some municipalities the option to enact local initiative power. RCW § 35.22.200. The local initiative cannot exceed the scope of that state grant of authority to cities. *Id*.

STW wrongly argues that Tacoma as a first-class city is "self - governing" and that doubt concerning power should be resolved in favor of the first-class city. *Pet*. 5, 17, 18. This simplistic approach wholly overlooks the legal hierarchy to which applies to local initiatives, as are STW's. Clear constitutional provisions and resulting case law prohibit STW's use of the local initiative process to enact a law that conflicts with federal or state law.

2. Overview of Initiative in Washington State

STW greatly overstates the nexus between this case and rights guaranteed by the State and United States Constitutions. The Washington State Constitution Art. II § 1 guarantees statewide initiative and referendum. Statewide initiative is the first power reserved by the people in the Washington Constitution and "vigilantly" protected by courts. *Coppernoll v. Reed*, 155 Wn.2d 290, 297, 119 P.3d 318 (2005); *citing In re Estate of Thompson*, 103 Wn.2d 292, 294-95, 692 P.2d 807 (1984). Statewide initiative power is "coexistive" with the legislature's power, and not generally amenable to substantive preelection review. *Coopernoll,* 155 Wn.2d

at 299. At the statewide level, RCW Ch. 29A.72 governs the process for submitting initiatives to voters. Importantly, prior to circulating a statewide initiative petition, the proponent must file the proposal with the Office of the Code Reviser for pre-circulation review, and furnish the Code Reviser's certificate of review to the Secretary of State to obtain a ballot title.

Unlike state-wide initiatives authorized by the constitution, the Washington State Constitution does not guarantee citizens an inherent right to local initiative and referendum. Washington State's legislature provides for municipal initiatives in first-class cities at RCW § 35.22.200. Washington State's legislature also created an optional and "more limited power of initiative under city or county charters or enabling legislation". *Coopernoll,* 155 Wn.2d at 299. Cases cited. No right to local initiative exists under the United States Constitution, Washington State's Constitution, or even statute. *City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1, 19, 239 P.3d 589 (2010). A city's decision to adopt a local initiative power is only optional. Just sixty-eight cities and counties in Washington State enacted local initiatives, the balance of cities

and counties have not adopted the procedure[3]. "Thus, the 'constitutional preeminence of the right of initiative' discussed in *Coppernoll* is not a concern in [a local initiative case] and the local powers of initiative do not receive the same vigilant protection as the constitutional powers addressed in *Coppernoll*....." *City of Longview v. Wallin*, 174 Wn. App. 763, 790, 301 P.3d 45 (Div. 2, 2013), *rev. denied*, 187 Wn.2d 1020, 312 P.3d 650 (2013).

3. Local Initiatives Subject to Limited Review that Proceeded Here.

From time to time, this Court helpfully writes detailed opinions that exhaustively overview of the history and status of the law on the given topic. This Court delved deep into the local initiative power in *Spokane*, 185 Wn.2d 97. This Court noted, as a preliminary matter "the right to file a local initiative is not granted in the constitution. Instead, state statutes governing the establishment of cities allow the cities to establish a local initiative process". *Id* at 104. This Court explained that courts generally avoid reviewing initiatives prior to enactment for several reasons, including the Court's reluctance to interfere with the electoral and

[3] Appendix A to *MRSC Intiative and Referendum Guide for Washington Cities and Charter Counties.* http://mrsc.org/getmedia/18593ba0-fa89-4776-84dc-3dcab86b3449/Initiative-And-Referendum-Guide.pdf.aspx?ext=.pdf . Accessed January 16, 2019.

legislative process and the prohibition on advisory opinions. *Id*. However, courts will review two types of challenges "procedural challenges (such as sufficiency of signatures and ballot titles) and whether the subject matter is proper for direct legislation". *Id*, *citing Coppernoll,* 155 Wn.2d at 298-99. Here, the Respondents and Tacoma sought declaratory judgement so that a court would examine whether the subject matter is proper for direct legislation. Therefore, the Supreme Court has balanced this pre-election legal review of local initiatives with legislative process concerns and determined that this pre-election review comports with valid legislative process and any attendant constitutional concerns.

4. Courts Routinely Invalidate Local Initiatives Outside the Scope of Initiative Power

Pre-election judicial challenges to local initiatives are a routine exercise by Washington courts. There is nothing remarkable about the Court's ruling on STW's local initiatives in this case. To the contrary, Washington courts regularly exercise their power to enjoin a local initiative from appearing on ballots where, as here, the local initiative exceeds the scope of the local initiative power.[4]

[4] *See Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend the Constitution*, 185 WA 2d. 97 (Feb. 4, 2016), (re-affirming that initiatives that purport to adjudicate water rights are contrary to state law, outside the scope of a city's authority and thus are beyond the scope of local initiative powers) and see *e.g., Am. Traffic Solutions.*, 163 Wn. App. at 433-34 (holding local initiative invalid as exceeding the scope of initiative power); See *Seattle*

Reviewing the substance of a local initiative to determine whether it improperly exceeds the initiative power presents "exclusively a judicial function." *Eyman v. McGehee*, 173 Wn. App. 684, 686-87, 294 P.3d 847 (Div. 2, 2013). Courts engage in such pre-election review "to prevent public expense on measures that are not authorized by the constitution while still protecting the initiative power from review of an initiative's provisions for possible constitutional infirmities." *Philadelphia II v. Gregoire*, 128 Wn.2d 717, 718, 911 P.2d 389 (1996). A court reviews a local initiative subject matter without advisory opinions concerns "because postelection events will not further sharpen the issue (i.e., the subject of the proposed measure is either proper for direct legislation or not)." *Coppernoll*, 155 Wn.2d 290, 299 (2005).

5. The Court Properly Invalidated the Initiatives.

On near-identical grounds as the Court found in *Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend the Constitution*, 185 WA 2d. 97 (Feb. 4, 2016), the STW local Initiatives exceed the

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Bldg. & Constr. Trades Council v. City of Seattle, 94 Wn.2d 740, 749 (1980) (affirming court's grant trade association's request to enjoin initiative from appearing on the ballot); *Ruano v. Spellman*, 81 Wn.2d 820, 830 (1973) (affirming court's grant of private intervenors' request to enjoin initiative from appearing on ballot); *Ford v. Logan*, 79 Wn.2d 147, 151 (1971) (affirming court's grant of taxpayer's declaratory judgment action, enjoining initiative from appearing on ballot). See also *Philadelphia II v. Gregoire*, 128 Wn.2d 707, 720 (1996) (attorney general should have "sought to enjoin [an initiative's] placement on the ballot" when attorney general believed it exceeded the initiative power).

local initiative power in numerous ways and are invalid. In this case, the Respondents furnished at least four reasons that the STW initiatives were invalid: Conflict with superior water law, conflict with the Growth Management Act, conflict with superior laws, and attempting to direct ad ministerial matters through local initiative. Each suffice to defeat the local initiative.

The Court of Appeals focused on the STW's local initiatives' violation of water law. The Court of Appeals affirmed invalidating the initiatives due to RCW[5] § 43.20.260's requirement that the City provide water to all applicants, and expressly declined to reach the other reasons to invalidate the initiative.

6. Response to Specific STW arguments.

a. <u>This Court Already Held that Pre-election Review of the Scope of Initiatives Consistent with Legislative Process</u>

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[5] **Review of water system plan, requirements—Municipal water suppliers, retail service.**
In approving the water system plan of a public water system, the department shall ensure that water service to be provided by the system under the plan for any new industrial, commercial, or residential use is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area. A municipal water supplier, as defined in RCW 90.03.015, has a duty to provide retail water service within its retail service area if: (1) Its service can be available in a timely and reasonable manner; (2) the municipal water supplier has sufficient water rights to provide the service; (3) the municipal water supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the department of health; and (4) it is consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area and, for water service by the water utility of a city or town, with the utility service extension ordinances of the city or town.

The *Spokane* and *Coppernoll* Opinions both authorize the pre-election review Respondents sought here. In a section entitled "Existing rules strictly limit pre-election judicial review of initiatives", this Court found that pre-election challenges to the scope of local initiatives do not unduly interfere in "the electoral and legislative process". *Spokane,* 185 Wn.2d at 104. Here, STW requests review by arguing that pre-election review interferes in the legislative process, contrary to this Court's consistent holding that it does not. *Petition* 8-11. Therefore, the STW's opinion that review here interfered in the legislative process are baseless.

The Court should also reject STW's premise that this Court has never explained why a city council action cannot be challenged before its election. *Pet*. 11. A court reviews a local initiative subject matter "because postelection events will not further sharpen the issue (i.e., the subject of the proposed measure is either proper for direct legislation or not)." *Coppernoll*, 155 Wn.2d 290, 299 (2005). Pre-election review prevents waste of public resources on infirm ballot measures. *Philadelphia II*, 128 Wn.2d at 720. By comparison, a city legislative measure can be amended and changed up until it has passed.

b. Lack of First Amendment Right to Place an Invalid Initiative on the Ballot Renders Scrutiny, Content and Prior Restraint Arguments Irrelevant.

A frequent refrain by STW is that Respondents seek to curb STW's First Amendment rights by filing this lawsuit. *See, e.g., Pet.* 11-17. But "[t]here is *no* First Amendment right to place an initiative on the ballot." *Angle v. Miller, 613*F.3d 1122, 1133 (9th Cir. 2012); (citing *Meyer v. Grant,*486 U.S. 414, 424 (1988)). The initiative sponsors have freely exercised their rights to petition the government and speak. *Petition* 6. They have no right to use the ballot as a forum for political expression. The purpose of the ballot is to elect candidates and enact law -not for political expression. As the U.S. Supreme Court explained in the "Washington Top 2 Primary" case, "[b]allots serve primarily to elect candidates, *not as forums/or political expression." Wash. Grange v. WA Republican Party,* 552 U.S. 442, 453 n.7 (2008) (emphasis added) (citation and internal quotation marks omitted).

Washington law is the same. In *City of Longview v. Wallin*, 301 P.3d 45, 53-54 (2013), *rev. denied*, 178 Wn.2d 1020 (2013), local initiative sponsors argued for a First Amendment right to have their local initiative appear on the ballot. There, the defendant (like STW) relied on *Coppernoll* to argue pre-election review of a local

initiative violated his free speech rights. 301 P.3d at 59. The Court rejected the argument that a pre-election challenge infringed on the sponsor's free speech rights and explained there was no constitutional right at issue. The local initiative power derives from statute, not the constitution, so "local powers of initiative do not receive the same vigilant protection as the constitutional powers addressed in *Coppernoll* [a statewide initiative case]." *Id*.

The Court in *Wallin* also concluded that where, as here, "the petition sponsors were permitted to circulate their petition for signatures and to submit that petition to the county auditor to have the signatures counted". 301 P.3d at 60. The sponsors suffered no impairment of their right to political speech. The Court rejected the sponsors' argument that the First Amendment affords initiative sponsors the "right to have any initiative, regardless of whether it is outside the scope of local initiative power, placed on the ballot." *Id*. As in *Wallin*, STW supporters do not have any constitutional right to have their local initiative appear on the ballot. Including invalid initiatives on the ballot does not vindicate or protect any rights, it undermines the integrity of a system intended to enact laws.

c. There is no “Right of local community self-government”

The other frequent refrain by STW is that Respondents seek

to curb Tacoma's purported "right of local community self-government". In its Opening Brief, STW spent nearly 40 pages on a perhaps incidentally interesting description of the formation of "local powers."[6] But STW presents all its recitation and "analysis" through rose-colored lenses that do not distinguish between hieratical levels of government, and by this critical omission, its analysis is wholly off point. Simply, STW's local Initiatives fail because local initiative power is a grant from the state, local initiatives cannot exceed the scope of that state grant of authority, local initiatives cannot amend the United States or Washington constitutions, local initiatives cannot create new inalienable and fundamental constitutional rights; local initiatives cannot interfere in administrative matters; and local initiatives cannot usurp authority delegated exclusively to the Tacoma City Council.

C. RAP 13.4(b)(4) not Met Because the Case Presents no Novel Issues Likely to Repeat Themselves

RAP 13.4(b)(4) allows review "If the petition involves an issue of substantial public interest that should be determined by the

[6] Examples include STW's citing to the Indiana state Constitution at p. 11, then linking its "relevance" to this case on an unspecific reference that the Washington Constitution was patterned after Oregon, and Oregon's after Indiana's; discussing the Mayflower Compact at page 14; 1760 "writs of assistance ' at p.16; *Marbury vs Madison* at p22; an extensive argument against application of *Dillions' Rule* of governance, which is not relevant to or raised in this case, and which Appellants STW themselves concede, to their apparent regret, remains the "law of the land per the United States Supreme Court," Appellants' *Opening Brief* at 25.

Supreme Court". This proviso has often been construed as an exception to the mootness doctrine, to be invoked when a litigant brings an otherwise moot issue to the appellate court that is likely to repeat itself. *Norman v. Chelan Cty. Pub. Hosp. Dist. No. 1*, 100 Wn.2d 633, 635, 673 P.2d 189 (1983). STW has not presented any novel issues to the Court. STW acknowledges that decades of precedent control the issues in this case. It seems that STW merely uses this case as a vehicle to seek further reconsideration of the *Spokane* opinion.

Moreover, STW's initiatives are whimsically out of bounds. Given the significant efforts required to prepare and circulate citizen's initiatives, the Port can only assume that not many residents of the State of Washington will muster such toil for a legally deficient undertaking.

V. CONCLUSION

For the above reasons, the Court should decline review of STW's Petition under RAP 13.4(b)(1), (3), or (4).

DATED this 17th day of January 2019.

GOODSTEIN LAW GROUP PLLC

s/Carolyn A. Lake

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below, I caused to be served the foregoing document on the following persons and in the manner listed below:

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DATED this 17th day of January 2019, at Tacoma, Washington.

s/Carolyn A. Lake
Carolyn A. Lake

GOODSTEIN LAW GROUP PLLC

January 17, 2019 - 4:51 PM

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Filed with Court:	Supreme Court
Appellate Court Case Number:	96575-7
Appellate Court Case Title:	Port of Tacoma, et al. v. Save Tacoma Water, et al.
Superior Court Case Number:	16-2-08477-5

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