

NO. 47861-7-II

---

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

---

POPE RESOURCES, LP and OPG PROPERTIES, LLC,

Appellants,

v.

WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES,

Respondent.

---

**WASHINGTON STATE DEPARTMENT OF NATURAL  
RESOURCES' ANSWER TO AMICUS BRIEFS OF  
GEORGIA-PACIFIC AND SIERRA PACIFIC**

---

ROBERT W. FERGUSON  
Attorney General

EDWARD D. CALLOW  
Assistant Attorney General  
WSBA No. 30484  
P.O. Box 40100  
Olympia, WA 98504-0100  
(360) 664-2854  
*Attorneys for Respondent  
Washington State Department  
of Natural Resources*

**TABLE OF CONTENTS**

I. INTRODUCTION.....1

II. ARGUMENT .....2

    A. This Court Should Disregard Facts Cited by Amici That Were Not Before the Trial Court. ....2

    B. DNR Does Not Have Any Ownership Interest in State-Owned Aquatic Lands. DNR’s Role as a Manager Is Defined by the Legislature and the State Constitution. ....3

        1. *Oberg* Stands for the Proposition That Where a Statute Explicitly Defines DNR as a “Landowner,” DNR May Be Considered a “Landowner” for the Purposes of That Statute.....4

        2. Unlike the Statutes at Issue in *Oberg*, the Aquatic Lands Statutes Do Not Give DNR Any Ownership Interest in State-Owned Aquatic Lands.....5

    C. It Is Undisputed in This Appeal That the State Itself Cannot Be a “Person” for the Purposes of Liability Under MTCA. Only Amici Raise the Issue of “State” Liability Under MTCA, and Accordingly This Court Should Disregard That Issue. ....7

    D. DNR’s Interpretation of MTCA Is Consistent With Making Polluters Pay for the Contamination They Cause.....10

III. CONCLUSION .....13

## TABLE OF AUTHORITIES

### Cases

<i>Bird-Johnson Corp. v. Dana Corp.</i> , 119 Wn.2d 423, 833 P.2d 375 (1992).....	8
<i>Dep't of Revenue v. Federal Deposit Ins. Corp.</i> , 190 Wn. App. 150, 359 P.3d 913 (2015).....	6
<i>Green v. Normandy Park</i> , 137 Wn. App. 665, 151 P.3d 1038 (2007).....	2
<i>In re Sundance Corp.</i> , 149 B.R. 641 (E.D. Wash. 1993).....	9
<i>Northlake Marine Works, Inc. v. DNR</i> , 134 Wn. App. 272, 138 P.3d 626 (2006).....	7
<i>Oberg v. DNR</i> , 114 Wn.2d 278, 787 P.2d 918 (1990).....	passim
<i>Pacificorp Env'tl. Remediation Co. v. Dep't of Transp.</i> , 162 Wn. App. 627, 259 P.3d 1115 (2011).....	10
<i>Seattle City Light v. Dep't of Transp.</i> , 98 Wn. App. 165, 989 P.2d 1164 (1999).....	10, 12
<i>State v. Gonzalez</i> , 110 Wn.2d 738, 757 P.2d 925 (1988).....	8
<i>State v. Jackson</i> , 137 Wn.2d 712, 976 P.2d 1229 (1999).....	9
<i>Unigard Ins. Co. v. Leven</i> , 97 Wn. App. 417, 983 P.2d 1155 (1999).....	6, 7

### Statutes

42 U.S.C. § 9601(21).....	8
---------------------------	---

RCW 70.38.025(10).....	9
RCW 70.105D.010(2).....	11
RCW 70.105D.020(22)(a) .....	3, 10
RCW 70.105D.020(22)(a), .....	12
RCW 70.105D.020(24).....	8, 9
RCW 70.105D.040.....	12
RCW 76.04.005 .....	4
RCW 76.04.610 .....	4
RCW 79.101.010 .....	5
RCW 79.105.010 .....	5
RCW 79.105.020 .....	5
RCW 79.105.060(13).....	9
RCW 79.105.060(20).....	5
RCW 81.88.010(11).....	9

**Rules**

RAP 9.12.....	2, 3, 11
---------------	----------

## I. INTRODUCTION

Industrial polluters using the State's aquatic lands have a strong incentive to support Pope Resources and Olympic Property Group (Pope/OPG) in this case: to maintain their ability to contaminate state-owned aquatic lands and then proceed to sue the State for cleanup costs related to the contamination that they and their predecessors caused.

Amici Georgia-Pacific and Sierra Pacific<sup>1</sup> join in Pope/OPG's arguments that the Department of Natural Resources (DNR) should be liable as an "owner or operator" of state-owned aquatic lands at Port Gamble. As part of its argument, Georgia-Pacific, which is a wholly owned subsidiary of the second largest privately held corporation in the United States, asserts that if this Court rules in DNR's favor, it will seriously jeopardize its ability to clean up its own pollution at Port Angeles.

Georgia-Pacific's arguments fail for several reasons. First, DNR does not have any "ownership interest" in state-owned aquatic lands, as DNR's role as a land manager is defined by the aquatic lands statutes and is based in the state constitution. Second, the primary case relied upon by Georgia-Pacific, *Oberg v. DNR*, 114 Wn.2d 278, 787 P.2d 918 (1990),

---

<sup>1</sup> Sierra Pacific did not file a separate brief, but rather filed a motion to join Georgia-Pacific's brief.

supports DNR's position. If the Legislature had intended to define DNR as an owner of state-owned aquatic lands, it would have done so in the aquatic lands statutes, just as it explicitly did in the uplands statutes at issue in *Oberg*. Finally, DNR's arguments are consistent with the Model Toxic Control Act's (MTCA) purpose as a polluter pays statute, making those polluters of the State's aquatic lands responsible for cleaning up the pollution that they cause.

## II. ARGUMENT

### A. This Court Should Disregard Facts Cited by Amici That Were Not Before the Trial Court.

This case is before the Court on appeal from an order granting summary judgment to DNR. Accordingly, under RAP 9.12, "the appellate court will consider only evidence and issues called to the attention of the trial court." The purpose of RAP 9.12 "is to effectuate the rule that the appellate court engages in the same inquiry as the trial court." *Green v. Normandy Park*, 137 Wn. App. 665, 678, 151 P.3d 1038 (2007).

Amici raise multiple unsubstantiated claims throughout their motions and briefs regarding DNR and various MTCA sites across Western Washington.<sup>2</sup> This Court should appropriately disregard any evidence presented by Amici that was not considered by the trial court and

---

<sup>2</sup> Br. of Georgia-Pacific at 3-5; Motion of Georgia-Pacific for Leave to File Brief at 2-4; Motion of Sierra Pacific Industries for Leave to File Amicus Brief at 2.

that is not supported by a citation to the record in this appeal.

See RAP 9.12.

**B. DNR Does Not Have Any Ownership Interest in State-Owned Aquatic Lands. DNR's Role as a Manager Is Defined by the Legislature and the State Constitution.**

Similar to the arguments made by Pope/OPG, Georgia-Pacific argues extensively that DNR has a sufficient ownership interest in state-owned aquatic lands to be liable as an "owner" under RCW 70.105D.020(22)(a). Br. of Georgia-Pacific at 7-11. However, as DNR discusses in its Response Brief, the State's ownership of its aquatic lands is set forth in the state constitution, and DNR's role as a land manager, and not an owner, is defined by the Legislature. See DNR Response Br. at 16-19.

Georgia-Pacific attempts to overcome DNR's arguments by relying primarily on *Oberg*, stating that "there is no reason why the holding in *Oberg* would not apply with equal force to aquatic lands managed by DNR." Br. of Georgia-Pacific at 9. There is, however, a good reason why *Oberg* does not support Georgia-Pacific's position, as *Oberg* involved an uplands statute that *explicitly defined* DNR as a landowner of forest land. *Oberg*, 114 Wn.2d at 282-83. This becomes clear upon closer examination of the *Oberg* case.

1. ***Oberg* Stands for the Proposition That Where a Statute Explicitly Defines DNR as a “Landowner,” DNR May Be Considered a “Landowner” for the Purposes of That Statute.**

At issue in *Oberg* was whether or not DNR could be liable for damages caused by a fire that spread off of state forest land. *Oberg*, 114 Wn.2d at 281-82. In examining DNR’s potential liability as a “landowner” of state forest lands, the *Oberg* court looked at RCW 76.04.005, which defined the terms “owner of forest land,” “landowner,” and “owner,” as including the “owner” of public land, and RCW 76.04.610, which required DNR to pay the fire protection assessment for this land. *Id.* at 282-83.

Under RCW 76.04.005, the *Oberg* court found that “the Legislature’s *express inclusion* of DNR within the landowner category indicates that the sections governing landowner liability apply to DNR.” *Oberg*, 114 Wn.2d at 282 (emphasis added). The court went on to conclude that “[b]y definition in the statute, RCW 76.04.005, DNR is a landowner, and has a duty *as a landowner* to provide adequate protection against the spread of fire from its land.” *Id.* at 283 (emphasis in original). In reaching this conclusion, the *Oberg* court also recognized that “[t]he legislature itself has imposed upon DNR this peculiar set of duties by *specifically defining* “forest landowner,” “owner of forest land,”

“landowner,” or “owner” to include DNR.” *Id.* at 285 (emphasis added). This type of “express inclusion” of DNR in the definition of landowner is noticeably absent under the aquatic lands statutes, particularly RCW 79.101.010, RCW 79.105.060(20), and RCW 79.105.020.

**2. Unlike the Statutes at Issue in *Oberg*, the Aquatic Lands Statutes Do Not Give DNR Any Ownership Interest in State-Owned Aquatic Lands.**

Under the statutes at issue in *Oberg*, the Legislature defined DNR as a “landowner” of state forest lands for the purposes of the forest protection statutes. *See Oberg*, 114 Wn.2d at 282-83. Unlike those statutes, the aquatic lands statutes do not define DNR as having any ownership interest in state-owned aquatic lands. *See* RCW 79.105.060(20) (defining “state-owned aquatic lands” as “tidelands, shorelands, harbor areas, the beds of navigable waters, and waterways *owned by the state and administered by the department . . . .* [and] does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department.”) (emphasis added). *See also* RCW 79.105.010 (Legislature “recognizes that the state owns these aquatic lands in fee and has *delegated to the department the responsibility to manage these lands for the benefit of the public*”) (emphasis added) and RCW 79.105.020 (directives in the aquatic lands statutes “articulate a management philosophy to guide the exercise of the *state’s ownership*

*interest and the exercise of the department's management authority.*") (emphasis added).

It is a basic rule of statutory construction that "[w]here the legislature uses certain statutory language in one statute and different language in another, a difference in legislative intent is evidenced." *Dep't of Rev. v. Fed. Deposit Ins. Corp.*, 190 Wn. App. 150, 162, 359 P.3d 913 (2015) (internal citations omitted). The fact that the Legislature defined DNR as a landowner under the forest protection statutes at issue in *Oberg*, but declined to do so under the aquatic lands statutes, indicates a clear intent to exclude DNR from having any ownership interest in state-owned aquatic lands.

For these reasons, the other "ownership" cases cited by Georgia-Pacific are also inapplicable. *See* Br. of Georgia-Pacific at 9-11. The cases cited by Georgia-Pacific in support of its "ownership" arguments are also called into question by *Unigard Insurance Company v. Leven*, 97 Wn. App. 417, 983 P.2d 1155 (1999), where the Court of Appeals stated in a footnote that the reason why Ecology named Mr. Leven as an "operator," and not as an "owner," of the facility in question under MTCA was "because Leven did not personally hold title to the LIDCO site or to the Bayside equipment, DOE *could not* have premised its PLP designation of him on Leven's status as an owner." *Unigard*, 97 Wn. App.

at 428, n.27 (emphasis added). This statement, while *dicta*, indicates that the *Unigard* court also considered fee ownership of a facility to be important for the purposes of “owner” liability under MTCA.

Similar to the arguments made by Pope/OPG, Georgia-Pacific also asserts that DNR’s management activities make it liable as an “owner” under MTCA. Br. of Appellant at 7, 9-10. However, as discussed above and in DNR’s Response Brief at 16-20, DNR’s management authority over stated-owned aquatic lands is prescribed by the Legislature, and because of this, DNR “may exercise only those powers conferred by statute, and cannot authorize action in absence of statutory authority.” *Northlake Marine Works, Inc. v. DNR*, 134 Wn. App. 272, 282, 138 P.3d 626 (2006). The Legislature defines DNR’s role regarding state-owned aquatic lands, and in carrying out its management responsibilities, DNR does not have any ownership interest in those lands.

**C. It Is Undisputed in This Appeal That the State Itself Cannot Be a “Person” for the Purposes of Liability Under MTCA. Only Amici Raise the Issue of “State” Liability Under MTCA, and Accordingly This Court Should Disregard That Issue.**

In this appeal, only Amici advance the argument that the State itself can be a liable “person” under MTCA. Br. of Georgia-Pacific at 12-14. Indeed, Pope/OPG conceded before the trial court that “the State

of Washington cannot be liable under MTCA.” CP at 308. Moreover, the Department of Ecology also agrees that:

The State of Washington (as distinguished from a state agency) is not defined as a “person” under MTCA. *See* RCW 70.105D.020(24). Ecology presumes that this omission is intentional and reflects a statutory intent to not make the State strictly liable for polluting activity on all State lands.”

Br. of Ecology at 5-6, n.3.

Because the issue of the State’s exclusion from liability under MTCA is not in dispute and is only raised by Amici, this Court should decline to consider it. *See State v. Gonzalez*, 110 Wn.2d 738, 752 n.2, 757 P.2d 925 (1988) (arguments raised only by amici curiae need not be considered). However, should this Court decide to consider the issue, it is worth emphasizing that MTCA and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) unambiguously differ in their definitions of “person,” and that CERCLA’s definition explicitly includes the word “State.” *See* 42 U.S.C. § 9601(21); *see also* RCW 70.105D.020(24). This difference indicates a clear statutory intent for MTCA to differ from CERCLA in this regard. *See Bird-Johnson Corp. v. Dana Corp.*, 119 Wn.2d 423, 427-28, 833 P.2d 375 (1992) (when MTCA uses different language, courts take note and consider the variance a clear indication of statutory intent).

While Georgia-Pacific cites *In re Sundance Corporation*, 149 B.R. 641, 658 (E.D. Wash. 1993), a federal bankruptcy case to support its argument that “MTCA was not intended to exclude the State from liability,”<sup>3</sup> this case does not address the fact there are numerous statutes where our Legislature has defined the term “person” to include both the State itself, as well as a state agency or other instrumentality of the State. *See, e.g.*, RCW 70.38.025(10); RCW 79.105.060(13); and RCW 81.88.010(11). The Legislature’s failure to similarly define “person” to include the “State” under RCW 70.105D.020(24) is indicative of a different statutory intent. *See State v. Jackson*, 137 Wn.2d 712, 723, 976 P.2d 1229 (1999) (when the Legislature omits certain language from a statute, it should be inferred that the omission was purposeful). This difference can only be interpreted as an intent to limit the State’s liability under MTCA.

It should be clear that DNR is not arguing that a state agency can never be liable under MTCA, as RCW 70.105D.020(24) specifically includes a “state government agency” in its definition of “person.” However, as DNR has argued, MTCA’s definition of “owner or operator” focuses on the conduct of a state agency “person” in connection with

---

<sup>3</sup> Br. of Georgia-Pacific at 12.

pollution at a “facility.” See RCW 70.105D.020(22)(a). DNR Response Br. at 30.

Indeed, there are no cases under MTCA in which a state agency was found liable for contamination at a facility based solely on an alleged “ownership” interest in the facility. In the cases that have involved a state agency’s liability, that agency was directly involved with the activity that caused the contamination. See *Pacificorp Envtl. Remediation Co. v. Dep’t of Transp.*, 162 Wn. App. 627, 634-39, 259 P.3d 1115 (2011) (state agency constructed and operated a drainage system that disposed of a hazardous substance in Commencement Bay). See also *Seattle City Light v. Dep’t of Transp.*, 98 Wn. App. 165, 172, 989 P.2d 1164 (1999) (state agency arranged for the disposal of a hazardous substance when it sold a contaminated tank car for scrap).

**D. DNR’s Interpretation of MTCA Is Consistent With Making Polluters Pay for the Contamination They Cause.**

Georgia-Pacific’s arguments, if adopted by this Court, would potentially subject DNR to liability for hazardous waste on the State’s 2.6 million acres of aquatic lands under DNR’s management authority, regardless of whether or not DNR actually engaged in any management activities on such lands. This would shift a huge burden back onto the taxpayers of this state, and would not serve one of MTCA’s purposes to

“raise sufficient funds to clean up all hazardous waste sites . . . .” RCW 70.105D.010(2). Instead, such a holding in this case would serve to help subsidize those entities actually responsible for contaminating state-owned aquatic lands. This would, in effect, turn MTCA from a polluter-pays statute into one of the largest public works statutes in state history.

While the facts of Port Angeles as argued by Amici are not properly before the Court in this appeal under RAP 9.12, the statements made by Georgia-Pacific in its brief are illustrative of the larger problem of industrial polluters contaminating state-owned aquatic lands, and then seeking to recover costs from the State. Georgia-Pacific is a subsidiary of the second largest privately held company in America.<sup>4</sup> Despite this fact, and despite the fact that Georgia-Pacific is a successor to one of the companies that polluted Port Angeles Harbor,<sup>5</sup> it makes the rather astonishing claim that a ruling in DNR’s favor would “directly and materially affect” the cleanup at Port Angeles, and implies that DNR is “the only remaining viable potentially liable party.”<sup>6</sup> This Court should

---

<sup>4</sup> Georgia-Pacific is a wholly owned subsidiary of Koch Industries, Inc. <http://www.gp.com/Company/Company-Overview> (last accessed March 23, 2016). Koch Industries is the second largest privately held company in America, with approximately \$115 billion in revenue for 2014. <http://www.forbes.com/companies/koch-industries/> (last accessed March 23, 2016).

<sup>5</sup> Br. of Georgia-Pacific at 3-4.

<sup>6</sup> Br. of Georgia-Pacific at 5.

not interpret MTCA in such a way as to reward the industrial polluters that are directly responsible for contaminating a site.

While Georgia-Pacific also asserts that DNR's arguments should be considered in the allocation, and not the liability, phase of this case,<sup>7</sup> this argument ignores MTCA's liability scheme, and is akin to arguing that a plaintiff in a negligence action should never have to prove liability, and should instead be allowed to go directly to the damages phase. Simply put, this is not how MTCA works.

The first step in determining liability under MTCA is to apply the "statutory criteria (enumerated in RCW 70.105D.040) to the facts." *Seattle City Light*, 98 Wn. App. at 170. If the criteria of the statute applies, the court proceeds to the allocation phase. *Id.* If not, the court's inquiry ends. As all of DNR's arguments in this appeal go to its potential liability as an "owner or operator" under RCW 70.105D.040 and RCW 70.105D.020(22)(a), the trial court appropriately considered them in the liability phase of this case, and this Court should consider them as well.

///

///

///

---

<sup>7</sup> Br. of Georgia-Pacific at 15.

### III. CONCLUSION

For the foregoing reasons, DNR respectfully requests that this Court reject the arguments of Amici and affirm the trial court's decision that DNR is not an "owner or operator" under MTCA at Port Gamble.

RESPECTFULLY SUBMITTED this 30th day of March, 2016.

ROBERT W. FERGUSON  
Attorney General



EDWARD D. CALLOW  
Assistant Attorney General  
WSBA No. 30484  
P.O. Box 40100  
Olympia, WA 98504-0100  
(360) 664-2854  
*Attorneys for Respondent  
Washington State Department  
of Natural Resources*

**CERTIFICATE OF SERVICE**

I certify that I caused a copy of the foregoing document to be served on all parties or their counsel of record on March 30, 2016, as follows:

<p>Nick S. Verwolf David J. Ubaldi Robert E. Miller Davis Wright Tremaine LLP 777 108<sup>th</sup> Ave. NE, Suite 2300 Bellevue, WA 98004-5149 <a href="mailto:nickverwolf@dwt.com">nickverwolf@dwt.com</a> <a href="mailto:davidubaldi@dwt.com">davidubaldi@dwt.com</a> <a href="mailto:robertmiller@dwt.com">robertmiller@dwt.com</a></p> <p><i>Attorneys for Appellants</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>Steven J. Thiele Jason T. Morgan Sara A. Leverette Stoel Rives LLP 600 University Street, Suite 3600 Seattle, WA 98101 <a href="mailto:steve.thiele@stoel.com">steve.thiele@stoel.com</a> <a href="mailto:jason.morgan@stoel.com">jason.morgan@stoel.com</a> <a href="mailto:sara.leverette@stoel.com">sara.leverette@stoel.com</a></p> <p><i>Attorneys for Amicus Curiae Georgia-Pacific LLC</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>

<p>Andrew A. Fitz Senior Counsel Attorney General's Office Ecology Division P.O. Box 40117 Olympia, WA 98504-0117 <a href="mailto:andyf@atg.wa.gov">andyf@atg.wa.gov</a></p> <p><i>Attorney for Amicus Curiae State of Washington, Department of Ecology</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>Laura B. Wishik Assistant City Attorney Seattle City Attorney's Office 701 Fifth Avenue, Suite 2050 Seattle, WA 98104-7097 <a href="mailto:laura.wishik@seattle.gov">laura.wishik@seattle.gov</a></p> <p><i>Attorney for Amicus Curiae City of Seattle</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>Amy Kraham Senior Assistant City Attorney Office of the City Attorney City of Bellingham 210 Lottie Street Bellingham, WA 98225-4089 <a href="mailto:akraham@cob.org">akraham@cob.org</a></p> <p><i>Attorney for Amicus Curiae City of Bellingham</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>

<p>Adam Rosenberg Williams, Kastner &amp; Gibbs, PLLC 601 Union Street, Suite 4100 Seattle, WA 98101-2380 <a href="mailto:arosenberg@williamskastner.com">arosenberg@williamskastner.com</a></p> <p><i>Attorney for Amicus Curiae Washington Ass'n of Municipal Attorneys</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>Christopher D. Bacha Chief Deputy City Attorney Tacoma City Attorney's Office 747 Market Street, Suite 1120 Tacoma, WA 98402-3767 <a href="mailto:cbacha@ci.tacoma.wa.us">cbacha@ci.tacoma.wa.us</a></p> <p><i>Attorney for Amicus Curiae City of Tacoma</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>David A. Bricklin Bricklin &amp; Newman, LLP 1001 Fourth Avenue, Suite 3200 Seattle, WA 98154 <a href="mailto:bricklin@bnd-law.com">bricklin@bnd-law.com</a></p> <p><i>Attorney for Amicus Curiae Unsoeld, Niemi, and Bricklin</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>
<p>Ken Lederman Foster Pepper PLLC 1111 Third Avenue, Suite 3400 Seattle, WA 98101 <a href="mailto:lederk@foster.com">lederk@foster.com</a></p> <p><i>Attorney for Amicus Curiae Washington Environmental Council</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid <input type="checkbox"/> Certified Mail Postage Prepaid <input type="checkbox"/> State Campus Mail <input type="checkbox"/> Hand Delivered <input type="checkbox"/> ABC Legal Messenger <input type="checkbox"/> FedEx Overnight <input checked="" type="checkbox"/> Email</p>

<p>William E. Bloor  City Attorney  City of Port Angeles  321 E. Fifth Street  Port Angeles, WA 98362  <u>wbloor@cityofpa.us</u></p> <p><i>Attorney for Amicus Curiae  City of Port Angeles</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid  <input type="checkbox"/> Certified Mail Postage Prepaid  <input type="checkbox"/> State Campus Mail  <input type="checkbox"/> Hand Delivered  <input type="checkbox"/> ABC Legal Messenger  <input type="checkbox"/> FedEx Overnight  <input checked="" type="checkbox"/> Email</p>
<p>Rodney L. Brown, Jr.  Tanya Barnett  Cascadia Law Group PLLC  1201 Third Avenue, Suite 320  Seattle, WA 98101  <u>rbrown@cascadialaw.com</u>  <u>tbarnett@cascadialaw.com</u></p> <p><i>Attorneys for Amicus Curiae  City of Port Angeles</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid  <input type="checkbox"/> Certified Mail Postage Prepaid  <input type="checkbox"/> State Campus Mail  <input type="checkbox"/> Hand Delivered  <input type="checkbox"/> ABC Legal Messenger  <input type="checkbox"/> FedEx Overnight  <input checked="" type="checkbox"/> Email</p>
<p>Michael L. Dunning  Perkins Coie LLP  1201 Third Avenue, Suite 4900  Seattle, WA 98101  <u>mdunning@perkinscoie.com</u></p> <p><i>Attorney for Amicus Curiae  Sierra Pacific Industries</i></p>	<p><input type="checkbox"/> U.S. Mail Postage Prepaid  <input type="checkbox"/> Certified Mail Postage Prepaid  <input type="checkbox"/> State Campus Mail  <input type="checkbox"/> Hand Delivered  <input type="checkbox"/> ABC Legal Messenger  <input type="checkbox"/> FedEx Overnight  <input checked="" type="checkbox"/> Email</p>

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

DATED this 30th day of March, 2016, at Olympia, Washington.

  


---

LISA F. ELLIS  
Legal Assistant  
Natural Resources Division

**WASHINGTON STATE ATTORNEY GENERAL**

**March 30, 2016 - 10:27 AM**

**Transmittal Letter**

Document Uploaded: 2-478617-Answer~2.pdf

Case Name: Pope Resources, LP and OPG Properties, LLC v. DNR

Court of Appeals Case Number: 47861-7

**Is this a Personal Restraint Petition?** Yes  No

**The document being Filed is:**

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: Answer

Brief: \_\_\_\_\_

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Kim L Kessler - Email: [kims2@atg.wa.gov](mailto:kims2@atg.wa.gov)

A copy of this document has been emailed to the following addresses:

[nickverwolf@dwt.com](mailto:nickverwolf@dwt.com)

[davidubaldi@dwt.com](mailto:davidubaldi@dwt.com)

[robertmiller@dwt.com](mailto:robertmiller@dwt.com)