

ORIGINAL

NO. 81809-6

SUPREME COURT OF THE STATE OF WASHINGTON

LUMMI INDIAN NATION, MAKAH INDIAN TRIBE, QUILEUTE INDIAN TRIBE, QUINULT INDIAN NATION, SQUAXIN ISLAND INDIAN TRIBE, SUQUAMISH INDIAN TRIBE, and the TULALIP TRIBES, federally recognized Indian tribes, JOAN BURLINGAME, an individual; LEE BERNHEISEL, an individual, SCOTT CORNELIUS, an individual; PETER KNUTSON, an individual; PUGET SOUND HARVESTERS; WASHINGTON ENVIRONMENTAL COUNCIL; SIERRA CLUB; and THE CENTER FOR ENVIRONMENTAL LAW AND POLICY,

Respondents/Cross-Appellants,

v.

STATE OF WASHINGTON; CHRISTINE GREGOIRE, Governor of the State of Washington; WASHINGTON DEPARTMENT OF ECOLOGY; JAY MANNING, Director of the Washington Department of Ecology; WASHINGTON DEPARTMENT OF HEALTH; and MARY SELECKY, Secretary of Health for the State of Washington,,

Appellants/Cross-Respondents,

and

WASHINGTON WATER UTILITIES COUNCIL, CASCADE WATER ALLIANCE and WASHINGTON STATE UNIVERSITY,

Intervenors-Appellants/Cross-Respondents.

RESPONDENTS/ CROSS-APPELLANTS' STATEMENT OF ADDITIONAL AUTHORITY

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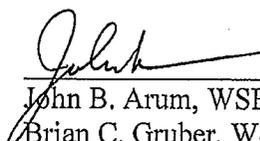
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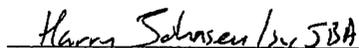
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Respondents/Cross-Appellants Lummi Nation, Makah Indian Tribe, Quinault Indian Nation, Squaxin Island Indian Tribe, Suquamish Indian Tribe and the Tulalip Tribes (collectively the "Tribes") and respondents/cross-appellants Joan Burlingame *et al.* (collectively "Burlingame Plaintiffs") hereby cite as additional authority *Post v. City of Tacoma*, ___ Wn.2d ___, 217 P.3d 1179, 1185-86 (2009), with respect to issues B.3, B.4 and B.5 in the Tribes' Issues Relating to Assignments of Error and issues B.2 and B.3 in the Burlingame Plaintiffs' Issues Relating to Assignments of Error. Tribes' Opening Brief at 5-6; Burlingame Plaintiffs' Opening Br. at 4. Specifically, *Post* clarifies the appropriate standard of review for facial procedural due process challenges. *See* Tribes' Opening Brief at 65, Burlingame Plaintiffs' Opening Brief at 67-68; Tribes' Reply Brief at 14-16; Burlingame Plaintiffs' Reply Brief at 26-27, 31.

Respectfully submitted this 18th day of December, 2009



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