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No. 90386-7

Ronald R. Carpenter
Clerk

SUPREME COURT OF THE STATE OF WASHINGTON

SARA FOSTER,

Appellant,

v.

WASHINGTON DEPARTMENT OF ECOLOGY, THE CITY OF
YELM, and WASHINGTON POLLUTION CONTROL HEARINGS
BOARD,

Respondents.

FILED
APR 15 2015

CLERK OF THE SUPREME COURT
STATE OF WASHINGTON

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BRIEF OF AMICI CITIES OF OLYMPIA AND LACEY

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I. INTRODUCTION

1.1 Identity of Amicus

The City of Olympia (“Olympia”) and the City of Lacey (“Lacey”) (collectively “Amici”) respectfully offer this amicus curiae brief on the legal issues before the Court. *See Ochoa Agunlimited, L.L.C. v. Delanoy*, 128 Wn. App. 165, 114 P.3d 692 (“The purpose of an amicus brief is to help the court with points of law.”); “Access to the court by those persons or groups who will be significantly affected by the outcome of the issues on review can materially assist the court in the decisionmaking process.” Karl B. Tegland, Washington Practice, Rules Practice 3 Task Force comment to RAP 10.6 (8th ed. 2014).

1.2 Interest of Amicus

The Amici are significantly affected by the outcome of these issues. The water right permit decision at issue in this appeal is the Washington State Department of Ecology’s (“Ecology’s”) issuance of a new water right for the City of Yelm (“Yelm”) (the “Permit”). Yelm’s Permit is based, in part, on a mitigation plan (the “Mitigation Plan”) that contains “Regional Mitigation” that is the product of extensive collaboration between Yelm, Olympia, and Lacey (collectively, the “Cities”), the Washington State Department of Fish and Wildlife (“WDFW”), Ecology, and the Nisqually and Squaxin Tribes. At the time, Lacey and Olympia, who obtain their water supply from the same watersheds, also sought and received water right approvals from Ecology

to meet public water supply demands. The Appellant, Sara Foster, appealed Ecology's decision approving Yelm's Permit to the Pollution Control Hearings Board ("PCHB"). Those water right approvals pertaining to Olympia and Lacey were not appealed and are not before this Court.

Amici are among the largest cities in the State of Washington that operate public water systems. The Cities ask this Court to recognize and embrace the statutory foundation and collaborative approach taken by the Cities and other stakeholders to cooperatively plan for and mitigate the potential impacts of obtaining public water supply. Amici support Ecology's decision to approve Yelm's Permit and the holdings below, particularly where the un-refuted expert testimony established that *net ecological benefits* will result to rivers and streams subject to instream flows and closures. While Olympia and Lacey continue to pursue the mitigation actions contained in their respective mitigation plans, they do not want to lose the participation of Yelm in the implementation of Regional Mitigation actions.

II. STATEMENT OF THE CASE

2.1 Coordinated Planning for Public Water Supply

In the mid-1990s, the cities of Yelm, Lacey and Olympia each filed water right applications and/or changes that could impact water resources in both the Nisqually and Deschutes River Basins.¹ Given that the predicted impacts of pumping groundwater would cross

¹ CP00142.

jurisdictional boundaries, the Cities collaborated to form a multi-party approach to developing, managing and mitigating water resources across affected basins.

The Cities consulted with Ecology and the Nisqually and Squaxin Island Tribes to update and later refine a hydrologic model for purposes of conducting a hydrologic impact analysis related to the Cities' water rights applications. Groundwater model changes were peer reviewed through a regional process and coordinated closely to ensure any subsequent runs of the model accommodated new data.²

The Cities further consulted with Golder Associates, S.S. Papadopoulos & Associates ("SSPA"), and Shannon & Wilson to evaluate the cumulative predicted impacts from future pumping. The groundwater modeling identified potentially impacted water bodies for which mitigation is required by the Washington Administrative Code.³ The Cities' consultants advised that the numerical groundwater model represented the best available science for analyzing the effects of groundwater pumping and making water rights decisions for large water right requests within the model's boundaries. Ecology concurred.⁴ The Cities' experts defined the accuracy limit for the hydrogeologic model.

² CP00142; CP00197.

³ Chapter 173-511 WAC (Nisqually River Watershed – WRIA 11) contains regulations addressing closures of surface water bodies in the basin as well as instream flow regulations pertaining to new appropriations. These regulations are separated by reach and are summarized in Table 3-1 in the City's Mitigation Plan. Chapter 173-513 WAC (Deschutes River Watershed – WRIA 13) also contains regulations addressing closures of surface water bodies in that basin as well as instream flow regulations pertaining to new appropriations. These regulations are also separated by reach and are summarized in Table 3-1 in the City's Mitigation Plan.

⁴ CP00144; CP00198.

The conservative construction of the model leads to *over-prediction* of depletions along much of the model boundaries, which includes the Deschutes and Nisqually Basins.⁵

Each of the Cities' mitigation plans include "Regional Mitigation" elements that include targeting flow augmentation through water rights acquisitions, acquisition of property in the upper watersheds, development of reclaimed water facilities, and implementation of habitat restoration projects.⁶

2.2 City of Lacey Regional Mitigation Actions

In support of its water right applications,⁷ Lacey collaborated with Yelm and Olympia to identify Regional Mitigation actions in the Woodland Creek, Deschutes River, and McAllister Creek basins. These actions are included in Yelm's Mitigation Plan.

Watershed planning authorized under RCW 90.82 has been active in the Nisqually watershed since 1999, with the *Nisqually Watershed Management Plan*, adopted in 2004, and the *Nisqually Implementation Plan*, approved in 2007. These plans include recommended mitigation strategies including relinquishment of water rights, infiltration of reclaimed water, and on-site and off-site habitat enhancements. Several of

⁵ See *Yelm's Response Brief* at 7.

⁶ CP00145.

⁷ Applications G2-29165, G2-29304, G2-30248, G2-30249, G2-30250 and G2-30251.

these actions became the Regional Mitigation actions proposed by the Cities.⁸

On October 10, 2008, Lacey executed an Interlocal Agreement (“ILA”) with Olympia for water rights mitigation. The ILA states that Lacey will take the lead on property acquisition in the Woodland Creek basin, and specifically identifies joint acquisition of approximately 20 acres of creek buffer at the (unconstructed) Rancho Serino subdivision.⁹ Lacey’s mitigation plan outlined Yelm’s participation in the funding of conservation easements along Woodland Creek to increase the amount of protected land along the creek.¹⁰

Prior to completing the purchase, Lacey requested, and Ecology granted, Lacey, Yelm and Olympia mitigation credit for joint purchase of the ~20 acres of creek buffer associated with the Rancho Serino development. Ecology specifically stated that Yelm has submitted a mitigation plan and that “[t]hese plans have been carefully coordinated into a regional approach for out-of-kind mitigation for all three cities. As stated in the cities’ mitigation plans, regional out-of-kind mitigation consists of the joint acquisition of approximately 30 acres of property or easements along Woodland Creek in order to increase the amount of undeveloped protected land along the creek.”¹¹ The property purchases,

⁸ City of Lacey Comprehensive Water Rights Mitigation Plan, December 2010 (“City of Lacey Mitigation Plan”), PCHB No. 11-155, Exhibit R-18 at 15.

⁹ Declaration of Peter Brooks (“Brooks Declaration”), PCHB No. 11-155, Exhibit Y-21, ¶16.

¹⁰ Brooks Declaration, ¶17.

¹¹ Brooks Declaration, ¶¶19, 20.

including the Woodland Creek riparian property referenced in all three cities' mitigation plans, was completed in 2011.¹² Acquisition and protection of riparian lands is specifically supported by WDFW as a companion mitigation strategy to stream flow augmentation.¹³

The 2008 ILA also states that Lacey will take the lead on design and construction of a regional reclaimed water infiltration facility that will provide in-kind mitigation in the Woodland Creek basin. The study included construction of monitoring wells, monitoring groundwater and stream levels, conducting infiltration tests, and developing and using a groundwater model to simulate infiltration on the site. Construction of the facility occurred in 2013.¹⁴

The Cities also met with the Squaxin Island Tribe on several occasions from 2007-2010 to discuss modeling results and proposed mitigation actions for the Deschutes River and Woodland Creek basins. The Tribe's comments were considered as the Cities revised mitigation actions, and for developing a list of habitat restoration projects to be included in the Regional Mitigation for the Deschutes.¹⁵

The Cities also collaborated with Ecology to hold an outreach event in 2009 for residents at Long, Hicks, and Patterson lakes to learn about predicted impacts of the Cities' applications on lake levels and to address the Regional Mitigation.¹⁶

¹² Brooks Declaration, ¶21.

¹³ Brooks Declaration, ¶22.

¹⁴ Brooks Declaration, ¶28.

¹⁵ City of Lacey Mitigation Plan, Exhibit R-18 at 15.

¹⁶ City of Lacey Mitigation Plan, Exhibit R-18 at 15.

2.3 City of Olympia Regional Mitigation Actions

The City of Olympia pursued three water right change applications¹⁷ that relied, in part, on the Regional Mitigation actions. A key aspect of Olympia's water right strategy was changing the source of its municipal supply from McAllister Springs to a new, more protected municipal wellfield ("McAllister Wellfield"). This action was originally recommended in the *Nisqually Watershed Management Plan*, which states that mitigation for regional water supplies should take a comprehensive approach.¹⁸

On May 13, 2008, Olympia City Council passed Resolution M-1702 authorizing the City to execute the *Memorandum of Agreement Between The City of Olympia, Washington, And The Nisqually Indian Tribe*, dated May 14, 2008 ("2008 MOA").¹⁹ The 2008 MOA provides that Olympia will work with the Nisqually Tribe to jointly develop the McAllister Wellfield as a shared water supply (including development of joint mitigation actions), provide conservation restrictions on the McAllister Springs property to ensure a perpetual state of conservation necessary for spiritual and healing ceremonies, and jointly develop a Stewardship Coalition for protection of water resources in the Nisqually Watershed.²⁰

¹⁷ City of Olympia Applications 8030, S2-001105C and Permit No. 10191.

¹⁸ City of Lacey Mitigation Plan, Exhibit R-18 at 34.

¹⁹ Hoey Declaration, ¶20.

²⁰ Hoey Declaration, ¶24.

The *City of Olympia and Nisqually Indian Tribe's McAllister Wellfield Mitigation Plan*, dated December 2010, outlines predicted impacts resulting from Olympia's water right applications, and identifies joint mitigation actions with Lacey and Yelm.²¹ The Plan notes that flows in McAllister Creek will increase when Olympia moves to the wellfield even though the wellfield will also exert an effect on McAllister Creek.²² Olympia's move off of McAllister Springs is predicted to fully mitigate the three Cities' modeled impacts and improve flows in McAllister Creek by 6.72 to 18.72 cfs during the spring (May) through fall (September) months.

Olympia also cooperated with Yelm and Lacey on Regional Mitigation in the Deschutes Basin. The Cities pursued the purchase of the 200-acre Ron Smith Farm and its associated water rights, and jointly proposed habitat restoration actions that became Regional Mitigation elements in the Cities' respective mitigation plans.²³ The Smith Farm property includes over a mile of Upper Deschutes River frontage, most of the frontage of the outlet channel from Lake Lawrence, and springs and seeps that flow via the outlet channel to the Deschutes River.²⁴ In-kind mitigation is provided through the acquisition and retirement of the farm's water rights, which mitigates predicted impacts by returning actual water to the river during the critical low-flow closure period. The Cities agreed

²¹ Declaration of Richard T. Hoey, PCHB No. 11-155, Exhibit Y-22, ¶17.

²² City of Lacey Mitigation Plan, Exhibit R-18 at 34.

²³ City of Lacey Mitigation Plan, R-18 at 41.

²⁴ City of Lacey Mitigation Plan, R-18 at 46.

to split this mitigation credit on an acre-foot basis.²⁵ Habitat restoration actions funded jointly by the Cities include reshaping stream channels, wetland re-establishment, erosion control and riparian plantings.²⁶

2.4 Mitigation Measures Achieve *Net Ecological* Improvements

Steven Boessow, a fisheries biologist with WDFW, evaluated the net effect of mitigation for each individually impacted stream, looking at both water-for-water and out-of-kind offsets identified in Yelm's Mitigation Plan. Mr. Boessow testified before the PCHB that despite minor reductions in flow, the actions identified in the Mitigation Plan, including the Regional Mitigation actions, would result in ***net ecological improvements***.²⁷ PCHB Tr. at 247:7 – 249:6 (discussing “net positive effects” due to enhancement of year-round flows on McAllister Creek); PCHB Tr. at 249:7 – 253:19 (discussing “a net positive effect” to fish and other instream values for the Deschutes River); PCHB Tr. at 237:24 – 242:8 (discussing a “net gain in fish habitat” for Yelm Creek); PCHB Tr. at 243:10 – 245:22 (discussing “2-1 mitigation value” from acquisition of riparian lands on Woodland Creek). Mr. Boessow's *unrefuted* testimony was accepted as expert testimony and referenced by the PCHB throughout its Order. PCHB Order, CP00249-00274. WDFW concluded that the joint effort between the Cities and key stakeholders allowed development

²⁵ City of Lacey Mitigation Plan, R-18 at 41.

²⁶ City of Lacey Mitigation Plan, R-18 at 48.

²⁷ CP00153.

of mitigation that none of the Cities could have accomplished alone. PCHB Order, CP00265.

Because not all the mitigation offered by the Cities provided year-round in-kind (water-for-water) offsets to stream flow impacts, Ecology determined that the minor modeled reductions in stream flows at certain limited times of the year could potentially conflict with minimum instream flows. Therefore, Ecology believed it was required to apply the OCPI exception. PCHB Tr. 34:19–36:11; CP00153.

2.5 The PCHB Upholds Ecology’s Decision Using a Narrower, More “Stringent” Set of OCPI Factors

On March 18, 2013, the PCHB issued its Order affirming Yelm’s Water Right Permit No. G2-29085. Through its de novo review, the PCHB went beyond Ecology’s OCPI test and applied a “more stringent” set of 12 factors to evaluate whether OCPI was justified in the case.

Those factors are as follows:

1. Ecology will use the OCPI exception only when water is to be used for a public purpose.
2. Ecology exhausted every feasible option to make sure that in-kind mitigation (water-for-water) was provided before turning to out-of-kind mitigation.
3. All depletions/impacts to the water bodies subject to minimum flows or stream closures were fully mitigated and trackable over time.
4. If out-of-kind mitigation was relied on, the benefits to fish and stream habitat, and to the values of the water body, were significant and clearly established through sound science.
5. If out-of-kind mitigation provided a permanent and net ecological benefit to the affected streams, and was more than sufficient to offset the minor depletion of water.

6. The potential impacts to water bodies were based upon a conservative hydrologic model.
7. The hydrologic model was prepared by an external consultant who is a professional modeler, and was subject to rigorous peer review, and can be modified, if needed.
8. The amount of water depletion was so small so that there is no or only minimal impact to water resources.
9. Water can be added if feasible for critical times for fish, and should not be diminished during such critical times.
10. Stakeholders were brought into and supported the proposed project and mitigation.
11. Mitigation was consistent with adopted watershed plans.
12. Water conservation efforts will be utilized, which in this case includes the use of reclaimed water.

PCHB Order at 23:7-24:8; CP00271-00272.

2.6 The Superior Court affirms the PCHB

The fundamental legal issue before the Superior Court was whether the PCHB, after applying a “more stringent” OCPI test than Ecology’s, properly found that the application of OCPI fit within the narrow exception recognized in both *Swinomish*²⁸ and *Postema*.²⁹

In this regard, the Superior Court concluded, in affirming the PCHB, as follows:

I do not read this case [*Swinomish*] to say that the Department of Ecology can never use an overriding consideration of the public interest in a situation such as the one before the court on the Yelm request for the water permit. I do not believe that the ruling is that broad or that

²⁸ *Swinomish v. Dep’t of Ecology*, 178 Wn.2d 571, 311 P.3d 6 (2013).

²⁹ *Postema v. Pollution Control Hearings Board*, 142 Wn.2d 68, 11 P.3d 726 (2000).

ultimately was the ruling in *Swinomish*. As I indicated, it's clear though that the overriding consideration of the public interest is a narrow exception, and it should not be used as perhaps it was used in the past by the Department of Ecology. Interestingly enough from my perspective, the Pollution Control Hearings Board also before the *Swinomish* decision was ever issued, they rejected the Department of Ecology's balancing test in their de novo review, and the Pollution Control Hearings Board said there has to be more.³⁰

III. ARGUMENT

3.1 Summary of Argument

As the major water purveyors in the region, the Cities collaborated under the terms of the Watershed Planning Act, Chapter 90.82 RCW, to develop a comprehensive strategy for balancing public water supply needs with preserving and protecting the future integrity of affected watersheds. In stark contrast to the facts in *Swinomish*, the Cities' applications were a product of extensive stakeholder input, including all affected Native American Indian Tribes, and supported by a comprehensive mitigation package. In *Swinomish*, Ecology's OCPI determination contained no reference to mitigation, as none was proposed.

Soon after the PCHB upheld Yelm's Permit, this Court issued its decision in *Swinomish*. The Supreme Court recognized, as it did in *Postema*, that OCPI was an exception to the rule that water right permits could not impair senior instream flows or closures set by rule. The Court

³⁰ Superior Court Transcript of Proceedings, pp. 43-44.

recognized that the OCPI statute was a “very narrow” exception, applicable in “extraordinary circumstances.”

The Cities are not arguing that the “extraordinary circumstances” standard referenced in *Swinomish* is achieved simply where there is a critical need for public water supply. As the PCHB noted in its Order, it is significant that the Cities, state agencies, and interested tribes did not pursue reliance upon OCPI at the outset of the permitting effort. “The OCPI determination was made only after exhausting all available in-kind mitigation.” Order at 25; CP00273. This exhaustive and measured approach ensured that OCPI was applied in only the narrowest of circumstances where *net* ecological improvements were recognized.

The Water Resources Act sets forth two often competing public interest considerations, i.e., to provide “[a]dequate water supplies . . . to meet the needs of the state’s growing population” and the acknowledgment that “[a]t the same time instream resources and values must be preserved and protected” for future generations. RCW 90.54.010(1)(a). The ordinary dictionary meaning of “extraordinary” is “going beyond what is usual, regular or customary, exceptional to a very marked extent.” Those terms describe the “*net* ecological improvements” to affected streams and rivers resulting from the Cities’ exceptional Regional Mitigation actions as well as the mitigation actions specific to each of the Cities. Through a collaborative and highly technical process, Yelm, Olympia and Lacey devised a successful plan to meet critical public water supply needs while actually *going beyond* what is called for in the

statute, i.e., creating *net* ecological benefits to water resources. That fact is what makes this case extraordinary and fit within the narrow sideboards of the OCPI standard.

In stark contrast to the facts in *Swinomish*, where Skagit basin tribes and the major water purveyors were left out of the consultative process, here, all affected public interests were involved and fully considered, which is how the Legislature intended that OCPI be applied.

3.2 Standard of Review

This Court may not reverse the PCHB's decision unless it finds the agency "has erroneously interpreted or applied the law, the agency's order is not supported by substantial evidence, or the agency's decision is arbitrary and capricious." RCW 35.04.570; *Postema*, 142 Wn.2d at 77.

3.3 The PCHB Applied the OCPI Exception to Yelm's Permit Consistent With Decisions of This Court

Nearly 14 years ago in *Postema*, this Court recognized the intersection of minimum flow rights and the OCPI statute. In review of several water right permits, the *Postema* court addressed hydraulic continuity between surface and groundwaters and the impairment test under RCW 90.03.290, and set out several "general water law principles." The Court's first principle is application of the Prior Appropriation Doctrine ("first in time, first in right"). The Court explained that when a party seeks to appropriate groundwater, Ecology must satisfy the 4-part test set forth in RCW 90.03.290(3). The Court then outlined the statutory scheme creating minimum instream flow rights, noting that RCW

90.03.345 provides that once established, a minimum flow right constitutes an appropriation with a priority date as of the effective date of the rule establishing the minimum flow. This Court's holding states that "where there is hydraulic continuity and withdrawal of groundwater that would impair existing surface water rights, including minimal flow rights, then denial is required." *Postema*, 142 Wn.2d at 93. But, the Court then explained:

Thus a minimum flow right by rule is an existing right which may not be impaired by subsequent groundwater withdrawals. RCW 90.03.345; RCW 90.44.030. **The narrow exception to this rule is found in RCW 90.54.020(3)(a), which provides that withdrawals of groundwater which would conflict with base flows "shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served."**

Postema, 142 Wn.2d at 81-82 (emphasis added).

Thus, the Appellant cannot dispute that *Postema* recognizes that the OCPI statute does not offend the Prior Appropriation Doctrine and that the OCPI statute reflects the Legislature's policy choice that instream flows can be affected, in limited circumstances. Likewise, on no less than six occasions in *Swinomish*, this court recognized that OCPI, while a limited exception, permits impairment of minimum flows.³¹

³¹ On the very first page of the opinion, the Court states "[t]his statutory provision [OCPI] allows impairment of instream flows when overriding considerations of the public interest are served." *Swinomish*, 178 Wn.2d at 576. The Court repeats this, recognizing "[t]he exception is very narrow, however, and requires extraordinary circumstances before the minimum flow water right can be impaired." *Swinomish*, 178 Wn.2d at 576. The Court finds again that "[a]lthough the term "minimum flow" does not appear in

3.4 The PCHB's Order Supports the Requisite Narrow Application of OCPI

The PCHB's Order upholding application of the OCPI exception was founded on a comprehensive mitigation plan developed in cooperation with purveyors that share the same watersheds, a plan that WDFW testified provides “*net* ecological benefits” to the resource and represents the “gold-standard” of mitigation plans. The mere fact that provision of public water supply was at issue did not direct a specific result. Instead, the PCHB reached its Conclusions of Law only after analyzing no less than 12 factors pertinent to whether overriding considerations were present supporting use of OCPI. Contrary to Appellant's claims, there are multiple scenarios in the future where this Court, or any lower tribunal, could find that the evidence, when taken together, does not support application of the OCPI exception, regardless of whether the applicant is a public water system or not.

In this case, a single groundwater source was developed by a public water purveyor. That source was drilled, tested, analyzed through peer-reviewed, scientific models, and mitigated, where appropriate. Furthermore, the Cities collaborated to study and address water supply needs across jurisdictional boundaries, as the Watershed Planning Act intended, and developed joint mitigation actions, as appropriate.

This is in stark contrast to the facts in *Swinomish*, where the specific number of future groundwater withdrawals, as well as the location

RCW 90.54.020(3)(a), we have already determined that the overriding-considerations exception is applicable to minimum flows.” *Swinomish*, 178 Wn.2d at 580.

and impacts of any such withdrawals was left completely unknown, yet future water users were free to access the 27 reservations to demonstrate adequate water supply at the building permit stage, whether or not actual impairment might result. *See Swinomish*, 178 Wn.2d at 589. The two cases couldn't be more different.

In this case, OCPI was applied in the narrowest of circumstances. The Cities identified mitigation that effectively delivered water-for-water mitigation covering all but several weeks of flow impacts in the Deschutes River basin. OCPI was then used as a basis to accept out-of-kind mitigation to address these "shoulder periods," where the unrefuted testimony showed the Cities' attempts to secure and retire additional irrigation rights were exhausted.

Municipal water supply cannot be compared to the wide-ranging "reallocation of water through water reservations" rejected by this Court in *Swinomish*. *See Swinomish*, 178 Wn.2d at 12. Unlike the vast number of private, unpermitted exempt wells that could be developed under the reservations in *Swinomish*, municipal water supplies are subject to permitting and metering, and are public in nature. Under the Water Resources Act, "development of water supply systems... which provide water to the public generally in regional areas within the state shall be encouraged." RCW 90.54.020(8). Thus, the Legislature encourages the development of water systems, such as Yelm's, and considers municipal systems as serving the "public generally." Delivery of public water supply is simply one element of the OCPI public interest inquiry. Yelm's Permit

is supported by OCPI because “overriding considerations” of the public interest demonstrate that water supply for population growth can, in fact, be secured in circumstances where *net* ecological benefits to the affected resource can also be achieved.

The Water Resources Act specifically provides as follows: “*All citizens of Washington share an interest in the proper stewardship of our invaluable water resources.... Through a comprehensive process that includes state, Indian tribes, local governments and interested parties, it is possible to make better use of available resources.*” RCW 90.54.010(1)(b) (emphasis added). The collaborative process undertaken by the Cities to both study potential impacts to water resources and develop joint mitigation strategies is precisely what the Act intended. Here, all affected public interests were involved and fully considered through the OCPI process, which is what the Legislature intended.

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IV. CONCLUSION

Amici respectfully request that this Court affirm the Superior Court's Order affirming the PCHB's Order.

DATED this 2nd day of April, 2015.

CITY OF LACEY



David S. Schneider, WSBA #36867
City Attorney

CITY OF OLYMPIA

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CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, I certify that on April 2, 2015, I caused to be served a copy of the Motion and Brief of Amici Cities of Olympia and Lacey in the above-captioned matter upon the parties herein as indicated below:

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

DATED Thursday, April 02, 2015, in Olympia, Washington.

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