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5
6 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 PAUL GRONDAL, a Washington
Resident; and THE MILL BAY
8 MEMBERS ASSOCIATION, INC., a
Washington Non-Profit Corporation,

9 *Plaintiffs/Counter-Defendants,*

10 vs.

11 THE UNITED STATES OF
AMERICA, U.S. DEPARTMENT OF
12 INTERIOR; BUREAU OF INDIAN
AFFAIRS; WAPATO HERITAGE,
13 LLC, CONFEDERATED TRIBES OF
THE COLVILLE RESERVATION,
14 FRANCIS ABRAHAM,
CATHERINE GARRISON, *et al.*,
15 allottees of Moses Allotment 8,

16 *Defendants/Cross-Defendants/Cross-
Claimants/Counter-Defendants.*

Case No. 09-CV-00018-JLQ

COLVILLE TRIBES' RESPONSE
TO THE COURT'S ORDER OF
JUNE 27, 2018

18 The Confederated Tribes of the Colville Reservation ("Tribes") responds to
19 the Court's Order of June 27, 2018 as follows:

1 **1. The role, statements, and participation of the Colville Tribes and the**
2 **Colville Tribal Enterprises Corporation in the 2004 mediation and court**
3 **proceedings.**

4 Neither the Tribes nor the Colville Tribal Enterprises Corporation
5 (“CTEC”) were parties to, or participated in, the Chelan County litigation
6 underlying the 2004 mediation. *See* Decl. of James Bellis at ¶ 3; Decl. of Bruce
7 Didesch at 2; *see also* ECF No. 346-1 at 7 (Order Approving Settlement
8 Agreement); ECF No. 346-1 at 18 (listing the parties to the settlement agreement).
9 The attorney for the Tribes, Rit Bellis, and the attorney for CTEC, Bruce Didesch,
10 were present for at least the first day of the 2004 mediation, but played no active
11 role in them. *See* Decl. of James Bellis at ¶¶ 4–8; Decl. of Bruce Didesch at ¶¶ 5–6.

12 Although they traveled to Seattle for the mediation, they did not participate,
13 and spent their time waiting outside the mediation room in the lobby. *See* Decl. of
14 James Bellis at ¶¶ 6–7; Decl. of Bruce Didesch at ¶ 5. They made no agreements on
15 behalf of the Tribes or CTEC. *See* Decl. of James Bellis at ¶ 9; Decl. of Bruce
16 Didesch at ¶ 7.

17 **2. The amount of money paid by the Mill Bay Members pursuant to the**
18 **2004 Settlement Agreement that was passed on to the individual**
19 **landowners.**

20 Wapato Heritage sent checks to landowners immediately following the 2004
Settlement Agreement. ECF No. 346-8 at 222–245. It is unclear to what extent and
in what amounts any payments to landowners were made subsequent to these

1 initial payments. However, it is clear that at some point Wapato Heritage withheld
2 payments to the landowner to offset an alleged prior overpayment to landowners.
3 ECF No. 346-2 at 36. The Tribes is unaware of any change in Wapato Heritage’s
4 treatment of the money they receive from the Mill Bay Members Association under
5 the 2004 Settlement Agreement.

6 **3. The existence of any transcript or other record of the Chelan County**
7 **mediation proceedings and/or the hearing and proceedings before the**
8 **Chelan County Superior Court.**

9 It is the Tribes’ understanding that the proceedings before the Chelan
10 County Superior Court were not recorded, but minutes were taken during hearings.
11 The Tribes does not have possession of any such minutes. It is also the Tribes’
12 understanding that there is presently no transcript or other record of the mediation
13 aside from the resulting agreement itself.

14 Dated this 18th day of July, 2018.

15
16 s/ Jason D’Avignon
17 **JASON D’AVIGNON WSBA#44259**

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which caused the CM/ECF participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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I hereby certify that I have mailed this document by United States Postal Service, first class postage prepaid, to the following non-CM/ECF participants:

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7
8 Dated this 18th day of July, 2018

9
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