

1 Sally W. Harmeling, WSBA No. 49457
JEFFERS, DANIELSON, SONN & AYLWARD, P.S.
2 2600 Chester Kimm Road
P.O. Box 1688
3 Wenatchee, WA 98807-1688
Email: SallyH@jdsalaw.com
4 (509) 662-3685 / (509) 662-2452

5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF WASHINGTON

7 PAUL GRONDAL, A WASHINGTON
8 RESIDENT; AND THE MILL BAY
MEMBERS ASSOCIATION, INC., A
9 WASHINGTON NON-PROFIT
CORPORATION,

10 Plaintiffs,

11 vs.

12 UNITED STATES OF AMERICA;
13 UNITED STATES DEPARTMENT OF
THE INTERIOR; THE BUREAU OF
14 INDIAN AFFAIRS, et al.,

15 Defendants.

NO. 09-CV-00018-RMP

DECLARATION OF SALLY W.
HARMEING IN SUPPORT OF
MOTION FOR DEFAULT JUDGMENT

16 SALLY W. HARMEING, pursuant to 28 U.S.C. § 1746, states and declares:

17 1. I make this declaration based upon personal knowledge, and if called upon to
18 do so, could and would testify competently as a witness to the matters stated herein.

19 2. I am a partner at Jeffers, Danielson, Sonn & Aylward, P.S. (“JDSA”) and I

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JEFFERS, DANIELSON, SONN & AYLWARD, P.S.
Attorneys at Law
(509) 662-3685 / FAX (509) 662-2452
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688

1 am counsel of record for Plaintiffs Paul Grondal and the Mill Bay Members Association,
2 Inc. (“Plaintiffs”), in this action.

3 3. On January 21, 2009, Plaintiffs filed this Complaint seeking declaratory and
4 injunctive relief against the United States of America, the United States Department of the
5 Interior, the Bureau of Indian Affairs, and the 37 landowners of MA-8, 35 of which are
6 individuals (“**Individual Allottees**”). (*See Compl.*, ECF No. 1.) The other 2 landowners
7 are Wapato Heritage, LLC, and the Confederated Tribes of the Colville Reservation. On
8 October 2, 2009, the Clerk of Court entered an order of default against 27 of the 35
9 Individual Allottees. (ECF No. 135.) Subsequently, eight of the 27 Individual Allottees
10 answered the Complaint, filed pro se declarations, or had attorneys enter notices of
11 appearance on their behalf. (ECF Nos. 134, 138–39, 141–42, 194–95, 311, 319, 341.)
12 Plaintiffs seek default judgments against 19 of the Individual Allottees named in the Clerk
13 of Court’s order of default who have not answered or otherwise participated in this case
14 (“**Defaulting Allottees**”).

15 4. **Francis Abraham**: Francis Abraham waived personal service (ECF No. 55),
16 and service was perfected on him as of June 10, 2009 under Fed. R. Civ. P. 4(d)(4). Francis
17 Abraham has not timely pled or otherwise defended or participated in this action.

18 5. **Lydia Armeecher**: Plaintiffs personally served Lydia Armeecher on May 5,
19 2009. (ECF No. 117 at p. 3.) Lydia Armeecher has not timely pled or otherwise defended

1 or participated in this action.

2 6. **Deborah L. Backwell**: Deborah Backwell waived personal service (ECF No.
3 44), and service was perfected on her as of April 28, 2009 under Fed. R. Civ. P. 4(d)(4).
4 Deborah L. Backwell has not timely pled or otherwise defended or participated in this
5 action.

6 7. **Jeff M. Condon**: Jeff Condon waived personal service (ECF No. 26), and
7 service was perfected on him as of February 3, 2009 under Fed. R. Civ. P. 4(d)(4). Jeff
8 Condon has not timely pled or otherwise defended or participated in this action.

9 8. **Naomi Dick**: Naomi Dick waived personal service (ECF No. 45), and service
10 was perfected on her as of April 28, 2009 under Fed. R. Civ. P. 4(d)(4). Naomi Dick has
11 not timely pled or otherwise defended or participated in this action.

12 9. **Catherine Garrison**: Plaintiffs personally served Catherine Garrison on May
13 6, 2009. (ECF No. 117 at p. 4.) Catherine Garrison has not timely pled or otherwise
14 defended or participated in this action.

15 10. **Dena Jackson**: Plaintiffs personally served Dena Jackson on May 2, 2009.
16 (ECF No. 117 at p. 4.) Dena Jackson has not timely pled or otherwise defended or
17 participated in this action.

18 11. **Enid Marchand Wippel**: Plaintiffs personally served Enid Marchand Wippel
19 on May 5, 2009. (ECF No. 117 at p. 5.) Enid Marchand Wippel has not timely pled or

1 otherwise defended or participated in this action.

2 12. **Linda Mills**: Plaintiffs personally served Linda Mills on May 6, 2009. (ECF
3 No. 117 at p. 5.) Linda Mills has not timely pled or otherwise defended or participated in
4 this action.

5 13. **Lucinda O'Dell**: Lucinda O'Dell waived personal service (ECF No. 47), and
6 service was perfected on her as of April 28, 2009 under Fed. R. Civ. P. 4(d)(4). Lucinda
7 O'Dell has not timely pled or otherwise defended or participated in this action.

8 14. **Vivian Pierre**: Plaintiffs personally served Vivian Pierre on May 12, 2009.
9 (ECF No. 117 at p. 6.) Vivian Pierre has not timely pled or otherwise defended or
10 participated in this action.

11 15. **Jacqueline W. White**: Plaintiffs personally served Jacqueline White on May
12 3, 2009. (ECF No. 117 at p. 6.) Jacqueline White has not timely pled or otherwise defended
13 or participated in this action.

14 16. **Mose Sam**: Plaintiffs personally served Mose Sam on May 2, 2009. (ECF No.
15 117 at p. 7.) Mose Sam has not timely pled or otherwise defended or participated in this
16 action.

17 17. **Sonia Vanwoerkon**: Plaintiffs personally served Sonia Vanwoerkon on May
18 3, 2009. (ECF No. 117 at p. 7.) Sonia Vanwoerkon has not timely pled or otherwise
19 defended or participated in this action.

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1 18. **Annie Wapato**: Plaintiffs personally served Annie Wapato on April 30, 2009.
2 (ECF No. 117 at p. 7.) Annie Wapato has not timely pled or otherwise defended or
3 participated in this action.

4 19. **Leonard Wapato, Jr.**: Plaintiffs personally served Leonard Wapato, Jr. on
5 April 30, 2009. (ECF No. 117 at p. 8.) Leonard Wapato, Jr. has not timely pled or otherwise
6 defended or participated in this action.

7 20. **Denise N. Zunie**: Plaintiffs personally served Denise N. Zunie on May 1,
8 2009. (ECF No. 117 at p. 8.) Denise N. Zunie has not timely pled or otherwise defended
9 or participated in this action.

10 21. **Derrick Zunie, Jr.**: Plaintiffs personally served Derrick Zunie, Jr. on May 1,
11 2009. (ECF No. 117 at p. 8.) Derrick Zunie, Jr. has not timely pled or otherwise defended
12 or participated in this action.

13 22. I am informed and believe, based on my review of the record, that none the
14 Defaulting Allottees are infants or incompetent persons. In addition, I ran each of the
15 Defaulting Allottees names through a Servicemembers Civil Relief Act verification
16 service, and the results we have received thus far show that none of the Defaulting Allottees
17 are subject to the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901–4043. (The website
18 for this service is available here: <https://www.servicememberscivilreliefact.com/>.) As of
19 the time that this motion was filed, my office has received verification reports that confirm

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1 that 17 of the 19 Defaulting Allottees are not in active duty status based on the information
2 we provided and the information in the Department of Defense Manpower Data Center.
3 We anticipate that we will receive verification reports on the remaining two Defaulting
4 Allottees within 24 hours, and will file a supplemental declaration as soon as we receive
5 those reports, but we did not to delay filing the motion regarding all 19 Defaulting Allottees
6 due to this delay.

7 23. Pursuant to LCivR 7(i)(2)(c), my office has sent out letters,
8 contemporaneously with the filing of this motion, to all the Individual Allottees—including
9 the Defaulting Allottees—who are included on the mailing list on the certificate of service
10 accompanying Plaintiffs’ Motion for Default Judgment and Plaintiffs’ Motion for
11 Expedited Consideration of that motion. That letter informs them of both Plaintiffs’
12 motions and their right to object to expedited consideration of Plaintiffs’ Motion for
13 Default Judgment. We do not anticipate receiving any responses because no Individual
14 Allottee has participated in this litigation for several years, they all remain unrepresented,
15 and numerous mailings have come back as undeliverable.

16 24. Pursuant to LCivR 7(i)(2)(c), I contacted Joseph Derrig (counsel for the
17 Federal Defendants) and Brian Chestnut (counsel for Defendant Confederated Tribes of
18 the Colville Reservation) by email the morning of April 14, 2020, regarding their respective
19 clients’ positions on Plaintiffs’ Motion for Expedited Hearing on Plaintiffs’ Motion for

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1 Default Judgment. Later that day Mr. Derrig provided a word version of Plaintiffs' Motion
2 to Expedite Hearing on Plaintiff's Motion for Default Judgment, which contained the
3 position of the Federal Defendants and the position of Defendant Confederated Tribes of
4 the Colville Reservation. I incorporated the statements of position that I received from Mr.
5 Derrig into Plaintiffs' Motion for Expedited Consideration of Plaintiffs' Motion for Default
6 Judgment under a separate heading.

7 25. Pursuant to LCivR 7(i)(2)(c), I contacted counsel of record for Wapato
8 Heritage, LLC, regarding their client's position on Plaintiffs' Motion for an Expedited
9 Hearing on Plaintiffs' Motion for Default Judgment. Counsel indicated that they support
10 Plaintiffs' Motion for Expedited Hearing on Plaintiffs' Motion for Default Judgment, and
11 that they will file a joinder in both motions.

12 26. I declare under penalty of perjury under the laws of the State of Washington
13 that the foregoing and attached is true and correct.

14 DATED this 14th day of April, 2020.

15
16 By s/SALLY W. HARMELING

Sally W. Harmeling, WSBA No. 49457

JEFFERS, DANIELSON, SONN & AYLWARD, P.S.

2600 Chester Kimm Road

P.O. Box 1688

Wenatchee, WA 98807-1688

Telephone: 509-662-3685

Fax: 509-662-2452

Email: SallyH@jdsalaw.com

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CERTIFICATE OF SERVICE

I hereby certify that on the 14TH day of April, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System. Notice of this filing will be sent to the parties listed below by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

Joesph P. Derrig
Usawae-jderrigecf@usdoj.gov

Nathan J. Arnold
nathan@caoteam.com

Dale M. Foreman
dale@fahzlaw.com

Sally W. Harmeling
sallyh@jdsalaw.com

Dale Melvin Foreman
dale@fahzlaw.com

Robert R. Siderius
Bobs@jdsalaw.com

Franklin L Smith
Frank@Flyonsmith.com

R Bruce Johnston
bruce@rbrucejohnston.com

Brian Gruber
bgruber@ziontzchestnut.com

Matthew A. Mensik
mam@witherspoonkelley.com

Brian W. Chestnut
bchestnut@ziontzchestnut.com

Dana Cleveland
Dana.cleveland@colvilletribes.com

Pamela J. DeRusha

Timothy W. Woolsey

PRO SE PARTIES

Francis Abraham
11103 E. Empire Avenue
Spokane Valley, WA 99206

Annie Wapato
1800 Jones Rd
Wapato, WA 98951-9

Paul G. Wapato, Jr.
10216 N Sundance Dr.
Spokane, WA 992085

Gary and Francis Reyes
PO Box 296
Newman Lake, WA 99025

Kathleen Dick
P.O. Box 288
Nespelem, WA 99155-0288

Jeffrey M Condon
PO Box 3561
Omak, WA 9884 1-3561

Deborah A. Backwell
24375 SE Keegan RD
Eagle Creek, OR 97022

Vivian Pierre
PO Box 294
Elmer City, WA 99124-0294

Catherine Garrison
3434 S 114th St., Apt. 124
Tukwila, WA 98168-4061

Sonia W (Wapato) Vanwoerkom
810 19th St
Lewiston, Id 83501-3172

Mary Jo Garrison
PO Box 1922
Seattle, WA 98111

Arthur Dick
PO Box 288
Nespelem, WA 99155-0288

Enid T. Wippel
PO Box 101
Nespelem, WA 99155

Hannah Rae Dick
PO Box 198
Nespelem, WA 99155-0198

Leonard Wapato
P.O. Box 442
White Swan, WA 98952-0442

Francis J Reyes
PO Box 215
Elmer City, WA 99124-0215

Lynn K. Benson
PO Box 746
Omak, WA 98841-0746

Dwane Dick
PO Box 463
Nespelem, WA 99155-0463

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1 James Abraham
2727 Virginia Avenue
2 Everett, WA 98201-3743

Gabe Marcellay
PO Box 76
Wellpinit, WA 99040-0076

3 Randy Marcellay
P.O. Box 3287
4 Omak, WA 98841-3

5 Paul G Wapato Jr
Catherine L (Gufsa) Garrison
6 3434 S 144th St Apt 124
Tukwila, WA 98168 -4061

Travis E Dick and Hannah Dick
Guardian of Travis E Dick
PO Box 198
Nespelem, WA 99155

7 Maureen M. Marcellay
8 501 SE 123rd Ave., Apt U150
Vancouver, WA 9868a3-4008

Jacqueline L Wapato
PO Box 611
Lapwai, Id 83540-0611

9 Leonard M Wapato
10 PO Box 442
White Swan, WA 98952-0442

Darlene Marcellay-Hyland
16713 SE Fisher Drive
Vancouver, WA 98683

11 Mike Marcellay
PO Box 594
12 Brewster, WA 98812-0594
13 Marlene Marcellay
1300 SE 116th Ct.
14 Vancouver, WA 98683-5290

Enid T (Pierre) Marchand
PO Box 101
Nespelem, WA 99155-0101

15 Stephen Wapato
246 N. Franklin
16 Wenatchee, WA 98801

Lydia A. Arneecheer
P.O. Box 45
Wapato, WA 98951-0475
Gabriel Marcellay
P.O. Box 76
Wellpinit, WA 99040

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Attorneys at Law
(509) 662-3685 / FAX (509) 662-2452
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688

1 DATED at Wenatchee, Washington this 14th day of April, 2020.

2 s/SALLY W. HARMELING

3 Sally W. Harmeling, WSBA No. 49457

4 Attorney for Plaintiffs

5 JEFFERS, DANIELSON, SONN & AYLWARD, P.S.

6 2600 Chester Kimm Road

7 P.O. Box 1688

8 Wenatchee, WA 98807-1688

9 Telephone: 509-662-3685

10 Fax: 509-662-2452

11 Email: SallyH@jdsalaw.com

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