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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PAUL GRONDAL, a Washington
resident; MILL BAY MEMBERS
ASSOCIATION, INC., a
Washington non-profit corporation,

Plaintiffs – Appellees,

vs.

UNITED STATES OF AMERICA;
U.S. DEPARTMENT OF THE
INTERIOR; BUREAU OF INDIAN
AFFAIRS; CONFEDERATED
TRIBES OF THE COLVILLE
RESERVATION,

Defendants – Appellees

NO. 20-35357

DECLARATION OF FRANKLIN
SMITH IN SUPPORT OF
PLAINTIFFS’ STATEMENT IN
SUPPORT OF MOTION OF
APPELLANTS WAPATO
HERITAGE, LLC AND GARY
REYES FOR STAY PENDING
INTERLOCUTORY APPEAL

FRANKLIN SMITH, pursuant to 28 U.S.C. § 1746, states and declares:

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

2. I am one of the members of the Mill Bay Members Association, a

DECLARATION OF FRANKLIN SMITH IN
SUPPORT OF PLAINTIFFS STATEMENT
IN SUPPORT OF MOTION FOR STAY
PENDING INTERLOCUTORY APPEAL

1 Plaintiff in the above-entitled action.

2 3. Our Association has approximately 180 members, who are
3
4 predominantly elderly individuals and families.

5 4. While we are mostly a recreational camping resort club, some of our
6
7 members use the RV Park on MA-8 as their residence – particularly on the
8 expanded membership side and our caretakers. Should they be ejected from this
9 land, these members may have very few options of where else to go during the
10 summer months. Others will lose the right to use and enjoy properties that have
11 been in their families for years.

12
13 5. The Mill Bay resort has been an ongoing part of the community for
14 more than 35 years. In reliance on the promises of the developers and the Bureau
15 of Indian Affairs (“BIA”), members have invested literally hundreds of thousands
16 of dollars into improving their family properties in virtually every infrastructure
17 imaginable—water, electricity, fiber optics, and construction, as just a few
18 examples. Should we be ejected, our members will lose every one of these
19 investments. Several generations of members have now enjoyed the park for
20 many years, as promised. Upon ejection, our members will lose their homes,
21 their memories, their family legacies.

22
23 6. For many years, the BIA has aided the Colville Tribe in their efforts

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26 **DECLARATION OF FRANKLIN SMITH IN**
27 **SUPPORT OF PLAINTIFFS STATEMENT**
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PENDING INTERLOCUTORY APPEAL

1 to oust our memberships to move their casino down to the water. We have been
2 in costly litigation for many of the past 18 years. This has been a very difficult
3 financial and emotional burden on members who simply trusted the word of the
4 United States government and the developers that our memberships were to last
5 until 2034.
6

7
8 7. I swear under penalty of perjury under the laws of the State of
9 Washington that the foregoing is true and correct to the best of my knowledge.
10

11
12 DATED this 13TH day of May, 2020.
13

14 /S/Franklin Smith
15 FRANKLIN SMITH
16 Place of Signing: Manson, WA
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26 DECLARATION OF FRANKLIN SMITH IN
27 SUPPORT OF PLAINTIFFS STATEMENT
IN SUPPORT OF MOTION FOR STAY
PENDING INTERLOCUTORY APPEAL
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I. CERTIFICATE OF SERVICE

I hereby certify that on the 13TH day of May 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit, 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.

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I certify that I served the foregoing document on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants.

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DATED at Wenatchee, Washington this 13TH day of May, 2020.

s/Sally W. Harmeling
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