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7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 PAUL GRONDAL, et al,

NO. 09-CV-00018-RMP

11 Plaintiffs,

PLAINTIFFS' STATEMENT IN
SUPPORT OF WAPATO HERITAGE,
12 LLC'S RESPONSE TO MOTION TO
CLARIFY (ECF 490) AND MOTION
FOR CONTEMPT

13 vs.

14 UNITED STATES OF AMERICA, et al;

Defendants.

15 Plaintiffs join fully in the arguments and authority in Defendant Wapato Heritage,
16 LLC's Response to Motion to Clarify (ECF No. 490) and Motion for Contempt, filed
17 contemporaneously herewith.

18 Plaintiffs will note further that, from the very beginning of this entire controversy,
19 they put BIA on notice of its inherent conflict of interest in aiding the Tribe and (at that
20 PLAINTIFFS' STATEMENT IN SUPPORT OF
WAPATO HERITAGE, LLC'S RESPONSE TO
MOTION TO CLARIFY (ECF 490) AND
MOTION FOR CONTEMPT

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1 time) Wapato Heritage in renegeing on the promised RV resort contracts that were supposed
2 to last through 2034, since officials of the Tribe and the Colville Bureau of Indian Affairs
3 were identical in many cases. ECF 90-7 at Exhibit 39 at p. 2 (“We, as the [Mill Bay Resort
4 Members Committee], are extremely concerned that the Bureau of Indian Affairs has an
5 inherent conflict of interest given the Colville Tribe’s pecuniary interest in seeing to it that
6 the Mill Bay Resort is obliterated and all contracts terminated in order to make room for
7 the Colville Tribe’s Mill Bay Casino.”). Notably, the BIA Superintendent who approved
8 all the allottee transfers over the past several years is now the public safety director of the
9 Colville Tribe, one of the highest positions in Tribal government. ECF 382 at p. 9. It
10 seems clear that Judge Quackenbush issued ECF 345 (the Order which the Government is
11 in contempt of) due to concern that the BIA and Colville Tribe were acting in concert to
12 the detriment of the allottees. ECF 345 at pp. 2-3 (admonishing the BIA for failing to
13 comply with a prior Court Order to supply documentation concerning allottee requests for
14 independent representation). He may also have suspected the BIA and Tribe were
15 conspiring to take over the majority of the allotments to seize control of MA-8 and
16 accomplish their goal of prematurely ejecting the Plaintiffs from MA-8.

17 It turns out that Judge Quackenbush’s suspicions were well-founded, as the Colville
18 Tribe now asserts in response to Plaintiffs’ Motions for Default and Summary Judgment:

19 **PLAINTIFFS’ STATEMENT IN SUPPORT OF**
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1 “The majority owner of MA-8, Colville [Tribe], has control [of MA-8] and supports
2 ejectment.” ECF 469 at p. 8. Thus, the Government had *and has* an interest in not fully
3 complying with ECF 345; it does not want to provide further evidence reflecting its
4 collusion with the Tribe to the detriment of the allottee landowners.

5 But the Government is unquestionably in contempt of ECF 345, and has been for
6 four years. ECF 493 (acknowledging there are additional documents in its possession that
7 are responsive to ECF 345, but that it will not produce them: “The United States does not
8 plan to clutter the record with additional documents unless the Court desires otherwise or
9 rules on the Motion for Clarification.”). The Government cannot in good faith assert that
10 the appraisals and documents related to the sale of the allottee interests in MA-8 did not
11 fall within the confines of “all documents in its possession applying to any such sale” “of
12 any landowner’s interest in MA-8 since the inception of this action on January 21, 2009.”
13 ECF 345 at p. 3, ¶¶ 3.a. & c. This Court should sanction the Government for “engaging
14 deliberately in deceptive practices that undermine the integrity of judicial proceedings”
15 (*Leon v. IDX Sys. Corp.*, 464 F.3d 951, 958 (9th Cir. 2006) (internal quotation marks
16 omitted)), and in conduct “utterly inconsistent with the orderly administration of justice.”
17 *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983). The Government
18 should not be permitted to advance any legal theory in its favor unless and until its contempt

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1 is cured. This Court should “ensure obedience to [its] orders” *F.J. Hanshaw Enters. v.*
2 *Emerald River Dev., Inc.*, 244 F.3d 1128, 1136 (9th Cir. 2001) and grant Wapato Heritage’s
3 Motion for Contempt.

4 DATED this 24th day of June, 2020.

5 By s/SALLY W. HARMELING

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of June, 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.

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1 DATED at Wenatchee, Washington this 24th day of June, 2020.

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