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**THE HONORABLE JIM ROGERS  
HEARING DATE: MAY 23, 2008**

**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

LUMMI INDIAN NATION, MAKAH  
INDIAN TRIBE, QUINAULT  
INDIAN NATION, SQUAXIN  
ISLAND INDIAN TRIBE,  
SUQUAMISH INDIAN TRIBE, and  
the TULALIP TRIBES, federally  
recognized Indian tribes,

Plaintiffs,

v.

STATE OF WASHINGTON;  
CHRISTINE GREGOIRE, Governor of  
the State of Washington;  
WASHINGTON DEPARTMENT OF  
ECOLOGY; JAY MANNING, Director  
of the Washington Department of  
Ecology; WASHINGTON  
DEPARTMENT OF HEALTH; and  
MARY SELECKY, Secretary of Health  
for the State of Washington,

Defendants.

NO. 06-2-40103-4SEA

**[PROPOSED]  
ORDER GRANTING DEFENDANT  
STATE OF WASHINGTON'S  
MOTION FOR SUMMARY  
JUDGMENT**

JOAN BURLINGAME, an individual;  
LEE BERNHEISEL, an individual;  
SCOTT CORNELIUS, an individual;  
PETER KNUTSON, an individual;  
PUGET SOUND HARVESTERS;  
WASHINGTON ENVIRONMENTAL  
COUNCIL; SIERRA CLUB; and THE

NO. 06-2-28667-7SEA

**ORDER GRANTING DEFENDANT  
STATE OF WASHINGTON'S MOTION  
FOR SUMMARY JUDGMENT  
[PROPOSED]**

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1 CENTER FOR ENVIRONMENTAL  
LAW AND POLICY,

2 Plaintiffs,

3 v.

4 STATE OF WASHINGTON;  
WASHINGTON STATE  
DEPARTMENT OF ECOLOGY; and  
5 WASHINGTON STATE  
DEPARTMENT OF HEALTH,

6 Defendants,

7 WASHINGTON WATER UTILITIES  
8 COUNCIL; CASCADE WATER  
ALLIANCE; and WASHINGTON  
9 STATE UNIVERSITY,

10 Defendant-Intervenors.

11 This matter came before the Court on the Defendant State of Washington's Motion for  
12 Summary Judgment in the above-captioned consolidated cases.<sup>1</sup> Defendants seek summary  
13 judgment and dismissal of all causes of action raised by Plaintiffs in their consolidated  
14 complaints.

15 The Court having reviewed the briefs filed by the parties and having heard the  
16 arguments of counsel, and being fully advised in the premises, HEREBY FINDS THAT:

- 17 1. Sections 1(3) and 1(4) of the Municipal Water Law, RCW 90.03.015(3) and (4), do  
18 not facially violate separation of powers under the state and federal constitutions.
- 19 2. Section 6(3) of the Municipal Water Law, RCW 90.03.330(3), does not facially  
20 violate separation of powers under the state and federal constitutions.
- 21 3. Sections 1(3) and 1(4), RCW 90.03.015(3) and (4), and Section 3, RCW  
22 90.03.560, of the Municipal Water Law, respectively, do not facially violate  
23 substantive due process under the state and federal constitutions.
- 24 4. Sections 4(4) and 4(5) of the Municipal Water Law, RCW 90.03.260(4) and (5), do  
not facially violate substantive due process under the state and federal  
constitutions.

25 <sup>1</sup> *Joan Burlingame, et al. v. State of Washington, Dep't of Ecology, et al.*, Complaint for Declaratory and  
26 Injunctive Relief, No. 06-2-28667-7 SEA, and *Lummi Indian Nation, et al. v. State of Washington, Christine  
Gregoire, et al.*, Complaint for Declaratory and Injunctive Relief, No. 06-2-40103-4 SEA.

5. Section 5(2) of the Municipal Water Law, RCW 90.03.386(2), does not facially violate substantive due process under the state and federal constitutions.
6. Section 6(3) of the Municipal Water Law, RCW 90.03.330(3), does not facially violate substantive due process under the state and federal constitutions.
7. Section 5(2) of the Municipal Water Law, RCW 90.03.386(2), does not facially violate procedural due process under the state and federal constitutions.
8. Sections 4(4) and 4(5) of the Municipal Water Law, RCW 90.03.260(4) and (5), do not facially violate procedural due process under the state and federal constitutions.

Based on the foregoing findings, the Court HEREBY ORDERS THAT:

Defendant State of Washington's Motion for Summary Judgment is GRANTED, and that all causes of action in these consolidated cases are dismissed, with prejudice, with each party to bear its own costs and attorneys fees.

DATED this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
THE HONORABLE JIM ROGERS

**Presented by:**

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**ORDER GRANTING DEFENDANT  
STATE OF WASHINGTON'S MOTION  
FOR SUMMARY JUDGMENT  
[PROPOSED]**