SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

MASTER BUILDERS ASSOCIATION OF KING AND SNOHOMISH COUNTIES, BUILDING INDUSTRY ASSOCIATION OF WASHINGTON, WASHINGTON AGGREGATES & CONCRETE ASSOCIATION, GREENCITY DEVELOPMENT, LLC, OSPREY LOGISTICS, LLC, ROBINETT BROTHERS CONSTRUCTION, LLC, ROBINETT INVESTMENT COMPANY, LLC, and MARTIN ROBINETT, Plaintiffs, vs. THE CITY OF EVERETT, Defendant, and STANDING FOR NATURE, Proposed Intervenor Defendant.	No. 25-2-00902-31 DECLARATION OF ROBERT MAGUIRE IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Robert Maguire, declare under penalty of perjury as follows:

1. I am an attorney with Davis Wright Tremaine LLP and counsel for Plaintiffs in this action. I make this declaration based on personal knowledge and could testify competently as to the facts set forth below.

2. The City of Everett Initiative No. 24-03 (the "Initiative") purports to give new

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rights to the Snohomish River Watershed (the "Watershed"), confer standing on the Watershed itself, and create a new cause of action and damages for the Watershed to enforce the Watershed's rights. A true and correct copy of the Initiative is attached hereto as **Exhibit A**.

3. Attached as **Exhibit B** is a true and correct copy of the KUOW article titled "Can River Have Rights? Everett Is Finding Out" dated January 14, 2025, posted on the Standing For Washington website (https://standingforwashington.org/2025/01/14/can-a-river-have-rights-everett-is-finding-out/) and last visited August 5, 2025.

4. The Everett Shoreline Master Program, developed with state approval pursuant to the Shoreline Management Act of 1971, RCW 90.58 *et seq.*, regulates a vast array of activity and conditions in the Watershed, including water quality, port activities, industrial activities, log storage and transport, and residential development. A true and correct copy of the Everett Shoreline Master Program is attached hereto as at **Exhibit C**.

5. The City of Everett Stormwater Management Program Plan ensures the city's compliance with the Western Washington Phase II Municipal Stormwater Permit under the Clean Water Act and Washington State's Water Pollution Control Law. A true and correct copy of the City of Everett Stormwater Management Program Plan is attached hereto as **Exhibit D**.

6. Everett's Comprehensive Plan provides detailed guidance on a broad range of water rights subject matters, including "wetland preservation, alteration, and mitigation[.]" A true and correct copy of Everett's Comprehensive Plan, Ch. 2 at 8-14, is attached hereto as **Exhibit E**.

7. A true and correct copy of Everett's Comprehensive Plan, Ch. 11, concerning port operations regulation and promotion, is attached hereto as **Exhibit F**.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct and was executed this 8th day of August, 2025 in Seattle, Washington.

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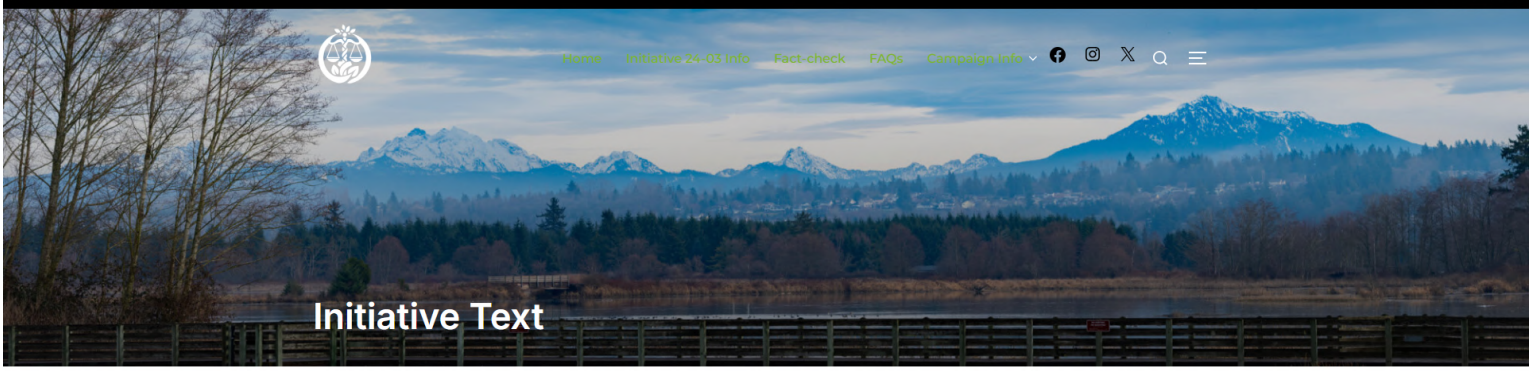
EXHIBIT A



City of Everett Initiative No. 24-03

Recognizing legally enforceable rights for the Snohomish River Watershed.

This ordinance would grant the Snohomish River Watershed legal rights that could be enforced by any resident of the City of Everett. Anyone who negatively impacts the Watershed' s ability to exist, regenerate or flourish would violate this right and could be liable for damages, which would be paid to the City to use exclusively to restore the Watershed and repair any damages. Violations would not need to be proven to a scientific certainty.

Should this ordinance be enacted into law?
Yes, for the Ordinance?
No, against the Ordinance?

City of Everett Explanatory Statement:

This ordinance would grant the Snohomish River Watershed the legal right to exist, regenerate and flourish, which includes the right to naturally flow and recharge, the right to maintain the water quality necessary for native plants and wildlife, and the right to provide clean water. It also includes the right to be free from activities or projects that interfere with those other rights.

It would be unlawful for anyone to interfere with the Watershed's enumerated rights. Anyone with standing in the City of Everett could bring a court action to enforce and protect these rights. A person found by a court to have violated the rights of the Watershed could be ordered to pay damages in the amount necessary to fully restore the Watershed to its natural state before the violation and attorney fees. A person bringing the suit would not have to prove the cause of the damage to a scientific certainty.

Any damages award in a lawsuit brought to protect the rights of the Watershed would be paid to the City of Everett. The City would be required to use those funds exclusively for the full and complete restoration of the Watershed as affected by the violation.

Our Summary:

The proposed ordinance seeks to recognize rights for the Snohomish River Watershed in Everett, Washington, highlighting its significance to the community, economy, and environment. Acknowledging the inadequacy of current legal frameworks to protect the watershed's well-being, the ordinance aims to grant legal standing to the watershed, allowing its rights to be represented and enforced in court.

It asserts the rights of the Snohomish River Watershed to exist, regenerate, and flourish, including rights to water quality, habitat preservation, and restoration, while prohibiting activities that violate these rights. Enforcement provisions empower the watershed to take legal action against violators, with damages intended for restoration efforts.

The ordinance emphasizes community stewardship and municipal authority to enact laws recognizing and expanding civil and environmental rights at the local level. Preemption and severability clauses ensure compliance with state and federal laws, while definitions clarify key terms and scope.

ORDINANCE TEXT

An ORDINANCE to recognize rights for the Snohomish River Watershed.

WHEREAS, the health and vitality of the Snohomish River Watershed benefits the Everett community, economy, environment, government, and future generations by providing good water quality, supporting habitat and wildlife biodiversity, increasing resilience to environmental challenges, reducing costs associated with water treatment, and enhancing the quality of life of Everett Citizens; and,

WHEREAS, current legal frameworks may not adequately protect the Watershed's ability to exist and flourish; and

WHEREAS, granting legal standing to the Snohomish River Watershed would allow for the Watershed's rights to be represented and enforced in court; and

WHEREAS, local residents and entities who rely on the Watershed's health should have the ability to advocate for its protection.

We the undersigned Citizens of Everett acknowledge that the protection and conservation of our watershed is vital for sustaining both human communities and natural ecosystems;

Therefore THE CITY OF EVERETT DOES ORDAIN:

A. Rights of the Snohomish River Watershed. The Snohomish River Watershed possesses the rights to exist, regenerate, and flourish, which shall include the right to naturally recharge, the right to naturally flow, the right to water quality necessary to provide habitat for native plants and animals, the right to provide clean water, and the right to restoration. The Snohomish River Watershed shall also have the right to be free from activities or projects which violate those rights.

B. Prohibitions. It shall be unlawful for any person to violate any of the rights recognized by this Ordinance.

C. Implementation and Enforcement.

(1) Enforcement by the Snohomish River Watershed. The Snohomish River Watershed may enforce or defend the rights recognized by this Ordinance through an action brought by any person with legal standing in the City of Everett in the name of the Snohomish River Watershed as the real party in interest, in any court of competent jurisdiction.
(2) Damages and Fees. Any person that violates any rights recognized by this Ordinance shall be liable for any damages caused to the Snohomish River Watershed as a result of that violation. Damages shall be measured by the cost of fully restoring the Snohomish River Watershed to its natural state before the violation, and shall be paid to the City of Everett to be used exclusively for the full and complete restoration of the Snohomish River Watershed as affected by the violation. A prevailing plaintiff, in an enforcement action, shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.
(3) Duties and Obligations. The rights of the Snohomish River Watershed secured within this Ordinance shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on the Snohomish River Watershed.
(4) Enforcement Actions and Burden of Proof. Where probable violations of the rights protected in this Ordinance are shown to exist, lack of full scientific certainty shall not be used as a reason for denying or postponing enforcement or defense of these rights.

D. Authority. This Ordinance is adopted under the authority of the Municipal Code of the City of Everett, pursuant to the authority provided to code cities in the Revised Code of Washington, and by the inherent right of the people of the City of Everett to make laws which recognize and expand civil and environmental rights at the municipal level, under the authority as recognized by, but not limited to, Article I, Section 1 and Article I, Section 4 of the Washington State Constitution, and the 10th Amendment and 14th Amendment, Section 1 of the United States Constitution.

E. Preemption and Severability.

(1) Preemption. This ordinance shall not be applicable to areas of law that have been validly preempted by state or federal law.
(2) Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person, entity, or circumstance, be declared unconstitutional or otherwise invalid or unenforceable for any reason, or should any portion of this Ordinance be validly preempted by state or federal law or regulations, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons, entities, or circumstances.

F. Definitions.

(1) "Snohomish River Watershed" as used within this Ordinance, shall include the Snohomish River and the watershed of the Snohomish River within the boundaries of the City of Everett in the State of Washington; and shall include, but not be limited to, Port Gardner Bay and the East Waterway, Union Slough, Mile Creek, Langus Riverfront Park Creek, tributaries of Pilchuk and Allen creek, and any other wetlands, tributaries and contributors to the Snohomish River Watershed within the boundaries of the City of Everett.
(2) "Clean Water" means water that is free from any non-natural presence of substances, contaminants, noise, or pollutants in quantities that may pose actual or potential harm to human health or welfare, animals, fish, plant life, or water quality, or that may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
(3) "Exist" as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to naturally perform basic functions historically common to the Snohomish River Watershed.
(4) "Flourish" as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to naturally prosper by vigorously growing and developing, which, in turn, allows it to robustly perform its basic functions.
(5) "**Person**" as used within this Ordinance, shall mean an individual, partnership, association, public or private corporation, city or other municipality, county, state, or federal agency.
(6) "Regenerate" as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to regain its historically basic functions following a natural or manmade interference with those functions.

EXHIBIT B

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January 14, 2025

CAN A RIVER HAVE RIGHTS? EVERETT IS FINDING OUT

SOUNDSIDE, KUOW (NPR)

Standing for Washington was interviewed by **Soundside**, a podcast on NPR Seattle affiliate **KUOW**, for a **story on the passage of Everett Initiative 24-03**.

In Everett, voters approved Initiative 24-03, granting the Snohomish River watershed legal rights, such as the right to exist, flow, and regenerate. This measure aligns with the global "rights of nature" movement, seen in countries like Ecuador and India. Although it passed with 57% of the vote, similar initiatives in the U.S. have faced legal challenges regarding their jurisdiction and scope.

The show interviewed Standing for Washington representatives, Holly James and Abi Ludwig. James mentioned that we shouldn't have the assumption that we can manipulate the river and do whatever we want to it and pretend to know the longterm effects of what we're doing. According to Ludwig, in order to strike a reasonable balance with human progress and development and protecting the ecosystem for the future of the community, the river needs to have rights so that balance will be easier to achieve. "It's very easy to damage an ecosystem, [but] it's much more difficult to restore it. So if there is a threat of a lawsuit, then [considering any longterm harmful impacts] can happen prior to the damage occurring."

David Troyer, the leading opponent of the initiative who rallied deep-pocketed developers to oppose it, was also interviewed, but his arguments sounded more like reasons to support the initiative. "The river flows from somewhere else. So if the pollution comes from somewhere else and it ends up in the city of Everett's part of the waters of the Snohomish River, it's not clear whether or not somebody in Everett could sue somebody in Monroe and say, "Hey, [the] thing that you did caused damage here, so I'm taking you to court. That's not clear. That could happen."

While the scope of who could be found liable would be up to the courts to determine, shouldn't residents of Everett have the ability to hold someone accountable who is ultimately causing harm to their watershed?

Troyer also wondered, "If potential lawsuits could put the city on the hook for massive infrastructure overhauls similar to the state's ongoing requirement to replace salmon culverts and restore access to spawning grounds." But if a lawsuit was successful in finding that infrastructure was harming the watershed, then wouldn't we want that to be addressed? It's a good thing that the state is requiring culverts for the salmon to access their spawning ground because of the fragile state of salmon populations and their importance to the Pacific Northwest bioregion and their cultural history in the state. The only reason the state has been fixing culverts is because the federal government and tribes sued the state to force them to follow their treaty obligation to the tribes to protect their tribal fishing rights.

Troyer's ironically absurd solution to deal with harm to the watershed was to suggest crafting better regulations with policymakers, ignoring the decades that activists have been trying to do this, often over the objection of these very developers. Despite the numerous regulations, zoning, commissions, and plans, protecting the watershed is still an uphill battle. For those instances where the regulations don't address the harm, aren't enforced, or are manipulated, the community should have the ability to bring their concerns to court. This is especially true following the recent **Supreme Court ruling** curtailing the power of federal agencies to regulate, and with the current administration and **Elon Musk declaring** that all regulations should be "gone."

The final interview was with Dr. Erin O'Donnell, a world-renowned expert in water policy and law, and Senior Lecturer and ARC Research Fellow at the University of Melbourne Law School in Australia. She had some brilliant insight into the initiative and the rights of nature movement:

"A couple of things stood out to me in terms of the the language in the the actual initiative itself, which is the protection of the right to naturally flow and naturally recharge. So, again, this is quite a specific wording for this initiative to say, let's try and protect the elements of this river that the river relies on to remain a river. So the flow, the water that moves through it, and its connection to the groundwaters that sustain it when it's not being supported by snow melt. So that's a really interesting element.

"The other thing that I looked at with this one in particular is actually who turned out to vote for it. And so by linking it to the presidential elections in 2024, the actual turnout for this vote was really high. So I was looking at the numbers. I think it was around 74% of the Everett population voted on this initiative. So that's that's really exciting in terms of the breadth of support that this initiative has across Everett.... and the majority of that majority [57%] did, in fact, support the initiative."

O'Donnell was asked, "How does adding the personhood to the river differ from, say, just passing regulations to protect the river? What's different about the fact that the city residents, organizations can actually find a violation and then the person goes to court and potentially has to pay damages to the city? How is that different from just a regular water quality regulation in its impact?"

O'Donnell's response: "So instead of saying you've breached your pollution permits or your development permits, and then the developer or the defendant is being held to account against the conditions on their permit, in this instance, with personhood, you'd be able to make the argument that what matters is the damage that the river has experienced, not necessarily whether or not someone has breached the existing regulations. And that can mean that people get held to a higher standard. This is what has happened in Ecuador, for instance. The constitutional court there has found that rights of nature impose a higher standard than existing environmental protection regulations.

"So it is a meaningful shift. But the other thing that it does, and this is something I find really interesting with the rights of nature arguments, is that... it creates quite a different relationship between people and nature.

"And so what happens in those instances is that we tend to see nature gaining legal rights, people pushing back against it quite quickly. So it can result in a, I guess, a backlash against rights of nature in that people become entrenched in their adversarial positions with nature. They start to treat nature as a competitor, as somebody that could hold them to account for their actions, and so they push back or they they act offensively first before nature can get into the game. But in other parts of the world, we're seeing that relationship change in a very different way. And this is where some of the rights which the Snohomish now has around the rights to exist and to flourish start to create a relationship of reciprocity and interdependence.

"When we recognize nature as a living entity, when we recognize rivers, particularly, as living entities, that starts to invite us into a relationship with those rivers that is very different to the transactional exploitative relationships that we've had so far.... We've dammed them. We've changed their flow routes. We've extracted water for our own purposes. We haven't given a lot of thought, really, to what the river needs and how much the river is giving us to sustain us.

"Rights of Nature is more about seeing the world around us as as part of our community. It says, we, as human beings, are not special. We are embedded in an ecosystem, and we are part of a community, and we owe obligations to the other members of that community."

The interviewer then brings up the opposition: "I want to talk about some pushback that opponents of the ordinance in Everett had, the personhood ordinance for this Snohomish River watershed. They worried that this would lead to a proliferation of lawsuits that would bog the city down. Of particular concern was a part of the initiative that said violations didn't need to be proven with full scientific certainty. In response, backers of the initiative have said that this gives the community a voice in the river's health even when the science may not be totally understood at the time. Basically, trying to take action too soon rather than too late when the damage has already been done and it can't be reversed."

O'Donnell responds, "[I]f Rights of Nature is successful, there will absolutely be impacts to development because that is exactly what it is trying to achieve. Right?

"It is trying to enable the natural environment to push back more effectively against developers, to remind the rest of us that the world around us has limits to what it can accept. And in most cases, we tend to run roughshod over those limits. So I think it is it is likely to have impacts on development. However, I haven't seen any examples anywhere in the world where it's led to this kind of flood of lawsuits, and there's some really good reasons why. And the in fact, the jurisprudence in the United States shows us the way that courts approach rights of nature. And I think they could do this in a slightly more creative way. They could, really try and learn a little bit more about the way that rights of nature work.

"But the other one is a question of whether or not it is vague, whether or not it is too vague to be upheld. And so I think what the Everett initiative is trying to do is to bring in the idea of the precautionary principle. So that's a well established principle in ecologically sustainable development law to say that even when the science is not 100% settled, if you think there is a, you know, a high likelihood or a high risk of a negative impact, particularly if it's irreversible, then that is a reason to not approve a development. So that principle is is often embedded within existing environmental protection laws. So the idea of that in the Everett initiative is not particularly outrageous or novel, and courts have been engaging with that for a long time.

"However, I think the things that the courts have got stuck on in the past in the United States are things like the right to flourish, the right to exist, the right to naturally flow. Right to flourish is probably the one where the courts would say, well, we don't really know what this means. This is too vague, and therefore, it's too difficult to know whether or not someone could have breached it. And and it's too difficult for an individual to know whether or not their actions would have breached it. So I think there is scope for courts to learn more about how they can interpret these kinds of provisions.

"And, again, in Ecuador, we've seen that exact thing has happened. So for the 1st 10 years following the 2,008 amendment, there were kind of a sprinkling of low level court rulings around rights of nature. And then in 2018, the constitutional court said, we need to just try and find some clarity around what rights of nature mean. And so since then, there has been a series of cases that have provided standards and consistency around how to interpret the rights of nature. And that is then guiding the way that litigation happens at lower levels as well."

The interviewer's final question: "Somebody might hear this and say, giving a river personhood and legal rights. I mean, what are we doing here? Where does this stop?... Like, what do you say to kind of critics who think that this is going way too far?"

O'Donnell answers this: "These criticisms have been around for decades.... I think there are valid criticisms of rights of nature, and I think this kind of pushback draws out quite a few of those. One is the adversarial nature of rights. So rights in law tend to be honoured only in the breach. So when we frame things around the rights of nature, what we're doing, particularly in relatively litigious societies, is to say, these are rights that you take to court and that you defend in court and that you can use to go up against someone else's rights. So they're incredibly adversarial.

"And it really does lead us into that question of, well, yeah, whose rights will trump whose? Whose rights are more important? Does the right of a tree to continue to grow in my yard outweigh my right to cut it down because I don't want it falling on my house? So it immediately focuses us on those kinds of sort of very minutiae level questions.

"Whereas, I think the power of rights of nature, the power of of Earth jurisprudence and of recognizing nature in law as a living entity, particularly identifiable natural elements, is that it changes our understanding of the community in which we live. [W]hat we can see is as we recognize nature as a community to which we belong, it does start to have that really compelling change to say, how are we behaving in this community? And rights are one way of looking at it, but the corollary of rights is obligations. So what obligations do we owe each other as part of a more than human community? And I think that's that's a much better question because that brings us into the community.

"It brings us into our obligations with each other. It reminds us of the interdependence that we experience all the time. Right? There is not a single human society that exists in isolation from the world around us. We rely on rivers for the water that comes out of our taps and for the water that we drink, rivers and aquifers.

"We rely on wetlands to filter that water. We rely on mangroves to buffer us, to buffer our our cities from the swell of the ocean. We rely on the world around us to make our lives possible. And at its best, Rights of Nature reminds us of that, and says there should be a legal mechanism that requires us to have that in mind when we're making decisions that impact on these systems that keep us alive."

Listen to the entire show at **Can a river have rights? Everett is finding out**, by Libby Denkman & Alec Cowan, January 24, 2025.

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When the River Has Rights: Everett's Vessel Faces New Scrutiny

August 4, 2025

EVERETT, WA — A long-neglected vessel docked in Everett may soon become the first legal test of the city's new watershed rights law—passed to protect the Snohomish River from environmental harm. Concerned citizens, alongside the nonprofit Standing for Washington, are keeping a close eye on thevessel, determined to defend their

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Standing for Washington Fights Back Against Developer Lawsuit

February 6, 2025

(Updated May 20, 2025) Standing for Washington is actively defending Everett Initiative 24-03 against a legal challenge brought by the Master Builders Association and other developer interests. As reported by the Everett Herald, the Master Builders Association and others have filed a lawsuit contesting the landmark measure that grants legal

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A River in Washington State Now Has Enforceable Legal Rights

December 5, 2024

INSIDE CLIMATE NEWS, Summary: Voters in the city of Everett chose to grant the Snohomish River watershed rights to exist, regenerate and flourish as part of a November ballot initiative. In a historic move, Everett, Washington, granted enforceable legal rights to the Snohomish River watershed, marking a major step forward

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