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 WASHINGTON AGGREGATES & CONCRETE ASSOCIATION IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Cory Shaw, declare as follows:

1. I am over the age of eighteen, am competent to testify, and have personal knowledge of the facts set forth in this Declaration. I am the Executive Director of Washington Aggregates & Concrete Association ("WACA").

2. WACA is a non-profit Washington trade association with its principal office

Davis Wright Tremaine LLP
LAW OFFICES
920 Fifth Avenue, Suite 3300
Seattle, WA 98104-1610
206.622.3150 main · 206.757.7700 fax

located in Des Moines, Washington.

3. WACA promotes the interests of sand, gravel, quarry rock, cement, ready mix concrete, suppliers, and industry-related businesses in Washington State, including businesses that operate in the City of Everett ("City"). WACA Members contribute approximately $5 billion in direct value to Washington's economy and provide direct wages of approximately $489.3 million across the state.

4. WACA promotes the interests of its Members by encouraging policies that strengthen and promote the industry.

5. WACA Members' operations in the City and the Snohomish River Watershed are regulated by City, state, and federal laws and regulations.

6. WACA Members must obtain review and approval for, and maintain compliance with, numerous regulations designed to protect the Snohomish River Watershed. The approval process for WACA Members' operations under the current federal, state, and local regulatory frameworks is often lengthy, complex, and expensive.

7. Businesses in the sand, gravel, quarry rock, cement, and ready mix concrete industries are subject to the federal Clean Water Act ("CWA"), the comprehensive regulatory framework that also regulates the discharge of pollutants in storm water from industrial sites.

8. The Washington State Department of Ecology ("DOE") and the federal Environmental Protection Agency administer the CWA in the state of Washington. DOE issues a range of permits to ensure compliance with the CWA, including the Sand & Gravel General Permit, which regulates the discharge of process water, stormwater, and mine dewatering water associated with sand and gravel operations, rock quarries, and other mining operations. Businesses in these industries, including WACA Members, are required to develop various plans to protect the waters of the state, including erosion and sediment control plans, monitoring plans, stormwater pollution prevention plans, and spill control plans. They are also required to conduct specific reporting and record keeping activities, including the submission of discharge monitoring reports.

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9. DOE also issues Construction Stormwater General Permits ("CSGPs") to protect waters of the state from construction-related impacts, including stormwater runoff from sites involving cement and concrete. The CSGP sets standards designed to protect water quality, including the health of aquatic life, human life, and sediment quality. These permits require WACA Members to comply with standards, prepare stormwater pollution prevention plans to control pollutants and flow rates, and conduct regular monitoring and reporting of water quality.

10. The City developed a Stormwater Management Program Plan to comply with its Western Washington Phase II Municipal Stormwater Permit, which is implemented through the regulations adopted by the City and codified as Chapter 14.28 (Surface and Storm Drainage) (the "Drainage Code") of the Everett Municipal Code (EMC). WACA Members must comply with the requirements of this Plan and the requirements of the City's Drainage Code, which include managing runoff from quarries, batch plants, and construction sites.

11. WACA Members are also regulated under the Washington Growth Management Act (Chapter 36.70A RCW – the "GMA"), which defines "critical areas" as including wetlands and fish and wildlife habitat conservation areas (*see* RCW 36.70A.030(11)), as well as the State Environmental Policy Act Chapter 43.21C RCW—"SEPA"). In accordance with these statutes, the City regulates critical areas—such as wetlands within the Snohomish River Watershed—under Chapter 19.37 EMC, and through its Comprehensive Plan developed under the GMA. To operate in these critical areas, WACA Members must comply with both state and local wetlands regulations, including local permitting requirements.

12. WACA Members are similarly regulated under the Washington State Shoreline Management Act (Chapter 90.58 RCW – the "SMA"), which the City implements through its Shoreline Master Program. In order to protect tidal habitat and shoreline resources under the SMA, the City's Shoreline Master Program regulates, among other things, industry in floodplain areas of the Snohomish River within the "shorelines of the state" (as defined in RCW 90.58.030(g)). These regulations require WACA Members to comply with local permitting rules, including the City's Shoreline Master Program.

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13. Everett Initiative No. 24-03 ("the Initiative", which is now codified as Chapter 20.12 EMC) directly harms the interests WACA seeks to promote because it impairs the sand, gravel, quarry rock, cement, and ready mix concrete industry by subjecting WACA Members to conflicting regulations. For example, unlike the Initiative, none of the federal, state, or local laws or regulations give the Snohomish River Watershed its own rights to exist, regenerate, and flourish, or its own private cause of action.

14. The Initiative also harms WACA's interests because its Members may fully comply with all federal, state, and City statutes, codes, and regulations yet still face private suit under the Initiative claiming damage to the Snohomish River Watershed. Under the Initiative, private individuals and organizations may bring legal actions in the name of the Snohomish River Watershed claiming that a business's operations interfere with the rights of the Watershed—such as the right to maintain water quality necessary for native plants and wildlife, or the right to provide clean water. Notably, the law allows such claims to proceed even without scientific certainty, meaning WACA Members could be held liable without definitive proof of harm.

15. The Initiative is acutely problematic for WACA Members whose activities may not even occur in the City, but who are still subject to lawsuits under the Initiative by Everett citizens who claim the Snohomish River Watershed in the City has been harmed by that non-local activity.

16. The Initiative further harms WACA's interests by increasing the threat of litigation, legal liability, and cost of doing business. This harm has been present since the Initiative passed because the operations of WACA Members in the City and the Snohomish River Watershed are all subject to the provisions of the Initiative, particularly with respect impacts of proposed projects that are regulated to address stormwater runoff and critical areas impacts of development projects.

17. WACA also suffers harm because its Members cannot rely upon the finality of their permits and other approvals obtained under the existing federal, state, and City regulatory

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frameworks. Under existing frameworks, once WACA Members have secured necessary approvals—which is a long and expensive process—their litigation risk and cost of doing business decreases because of the benefit of finality. That is no longer the case as approved operations now can nevertheless be subject to litigation under the Initiative.

18. The Initiative harms WACA's interests by increasing legal liability and the cost of doing business for its Members seeking to develop residential projects in the City and the Snohomish River Watershed. WACA Members are subject to increased liability in deciding whether to conduct business in the City or other applicable locations within the Snohomish River Watershed. However, the "personhood" rights created by the Initiative for the Snohomish River Watershed, the private cause of action, and expansive grant of standing mean that WACA Members can be sued by anyone at any time even if it is in full compliance with its permits and even if the activity has been approved by federal, state, or City authorities. This injures WACA by increasing litigation risk of and thus the cost of doing business for its Members, including the cost of new development that require WACA Members to initiate approval processes.

19. The Initiative has caused this very harm to a WACA Member on Smith Island that operates a ready-mix concrete plant. The WACA Member is expanding its useable industrial area to add railroad access and operating areas. The project has gone through five years of environmental and regulatory review, including to address impact on the Watershed. The regulatory process has included SEPA review for critical areas, Shoreline Substantial Development permit approval, Clean Water Act concurrence with the US Army Corp of Engineers, and more. The WACA Member has nearly completed construction and installed new stormwater systems, but the Initiative's new standards have jeopardized the project and put hundreds of thousands of spent dollars at risk.

20. The Initiative has also jeopardized a separate project on Smith Island, in which a WACA Member partnered with other properties and the City to create a new access road, bridge, and highway access improvements. The Federal Railroad Administration awarded an $18 million grant for the project in January 2025. The Initiative, however, has jeopardized the

Davis Wright Tremaine LLP
LAW OFFICES
920 Fifth Avenue, Suite 3300
Seattle, WA 98104-1610
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project because it creates uncertainty that the stormwater discharge measures, which otherwise meet regulatory requirements, will be subject to lawsuits under the Initiative.

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 7th day of August, 2025 in Des Moines, Washington.

Signed by:
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Seattle, WA 98104-1610
206.622.3150 main · 206.757.7700 fax