

THE HONORABLE RICARDO S. MARTINEZ

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

UNITED STATES OF AMERICA, et al.,

Plaintiff(s),

v.

STATE OF WASHINGTON, et al.,

Defendant(s).

No: C70-9213

Subproceeding: 89-3-12

SKOKOMISH INDIAN TRIBE'S
REQUEST FOR DISPUTE
RESOLUTION UNDER § 9 OF THE
REVISED SHELLFISH
IMPLEMENTATION PLAN

RE: GOLD COAST OYSTER LLC;
DENNIS DAWSON AND JANIS
DAWSON, INDIVIDUALLY AND
AS HUSBAND AND WIFE, AND
THE MARITAL COMMUNITY
COMPOSED THEREOF; JANIS
CHAPMAN; JAMESTOWN
S'KLALLAM TRIBE; LOWER
ELWHA KLALLAM TRIBE; PORT
GAMBLE S'KLALLAM TRIBE;
AND SUQUAMISH TRIBE

**CLERK'S ACTION REQUIRED:
REQUEST FOR COURTROOM
SECURITY**

1 **I. INTRODUCTION TO REQUEST FOR DISPUTE RESOLUTION**

2 1.1 The Skokomish Indian Tribe respectfully requests that the Court, in
3 accordance with § 9 of the Revised Shellfish Implementation Plan, (hereinafter the
4 “Implementation Plan”), resolve the ongoing disputes with Gold Coast Oyster LLC
5 (hereinafter “Gold Coast”), the named property owners, and other property owners that
6 may be joined at a later date, with respect to the interpretation and application of the
7 Implementation Plan. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.

8 1.2 Gold Coast’s violations of the Treaty of Point No Point and the
9 Implementation Plan include, but are not limited to: the failure to disclose information as
10 required under the Implementation Plan; the imposition of unlawful “access controls” for
11 tidelands; rejection of Skokomish’s valid survey and population estimate methodology;
12 and failure to coordinate the development of harvest plans and/or other arrangements.
13 Treaty of Point No Point, 12 Stat. 933; *United States v. Washington*, C70-9213, Sub. No.
14 89-3, Dkt. 14331.

15 1.3 Additionally, Dennis Dawson and Janis Dawson own Mason County Parcel
16 No. 22220-41-00081 and Janis Chapman owns Mason County Parcel No. 22220-41-00070.
17 By aiding, abetting and/or conspiring with Gold Coast to violate the terms of the Treaty of
18 Point No Point and the Implementation Plan, Dennis Dawson, Janis Dawson and Janis
19 Chapman are jointly and severally liable for the actions of Gold Coast. Treaty of Point No
20 Point, 12 Stat. 933; *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.
21 Dennis Dawson, Janis Dawson and Janis Chapman may also be liable for any injuries
22 (harm) sustained by the Skokomish Indian Tribe, as a consequence of their unlawful acts
23 committed independently of Gold Coast. *Id.*

1 1.4 The Skokomish Indian Tribe has satisfied all prerequisites and exhausted
 2 all reasonable efforts to negotiate a resolution to these disputes without success and dispute
 3 resolution is necessary. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.
 4 Pursuant to the dispute resolution process, the Skokomish Indian Tribe is seeking
 5 declaratory, injunctive and other relief.

6 1.5 The Skokomish Indian Tribe, furthermore, believes that Curtis Scott Grout
 7 of Gold Coast (hereinafter “Scott Grout”) represents an imminent danger to the personal
 8 safety of others. As such, the Skokomish Indian Tribe respectfully requests that heightened
 9 security be provided at all times when Scott Grout of Gold Coast is present in Court.

10 **II. PARTIES TO REQUEST FOR DISPUTE RESOLUTION**

11 2.1 The Skokomish Indian Tribe is an Indian tribe with a governing body duly
 12 recognized by the Secretary of the Interior. 80 Fed. Reg. 1942 (January 14, 2015). The
 13 Skokomish Indian Tribe is re-organized under the Indian Reorganization Act of June 18,
 14 1934. 48 Stat. 984, 25 U.S.C. § 476. The Skokomish Indian Tribe operates under a
 15 Constitution and by-laws first adopted on April 2, 1938, and approved by the Secretary of
 16 the Interior May 3, 1938, amended January 15, 1980, as approved by the Secretary of the
 17 Interior March 17, 1980.

18 2.2 The Skokomish Indian Tribe is a successor in interest to signatory Tribes to
 19 the Treaty of Point No Point of January 26, 1855 (12 Stat. 933) (Ratified March 8, 1859
 20 and Proclaimed April 29, 1859), (hereinafter the “Treaty”). Article IV of the Treaty
 21 guarantees the Skokomish Indian Tribe the right to take shellfish within its usual and
 22 accustomed grounds and stations which include, “all the waterways draining into Hood
 23 Canal and the Canal itself.” *United States v. Washington*, 384 F. Supp. 312, 376-377 (W.D.

1 Wash. 1974), *affirmed*, 520 F.2d 676 (9th Cir. 1975); *United States v. Washington*, 873 F.
2 Supp. 1422 (W.D. Wash. 1994), *affirmed in relevant part*, 157 F.3d 630 (9th Cir. 1998);
3 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.

4 2.3 The Skokomish Indian Tribe has exercised and continues to exercise its
5 primary right (hereinafter the “Primary Right”) by excluding all other Indian tribes from
6 fishing and shellfishing in Hood Canal to the greatest extent permitted by law. *United*
7 *States v. Washington*, 626 F. Supp. 1405 (W.D. Wash. 1985); *United States v. Washington*,
8 764 F.2d 670 (9th Cir. 1985); *United States v. Washington*, 393 F. Supp.2d 1089 (W.D.
9 Wash. 2005); *United States v. Washington*, 573 F.3d 701 (9th Cir. 2009).

10 2.4 As of February 19, 2015, the Skokomish Indian Tribe also holds Self-
11 Regulatory status for its fishery, pursuant to a determination of the Washington State
12 Department of Fish and Wildlife (hereinafter the “WDFW”). *United States v. Washington*,
13 384 F. Supp. at 340-341; Declaration of Jessica Donovan, Ex. A.

14 2.5 The Skokomish Indian Tribe is furthermore bound by the terms of the
15 Implementation Plan, until such time as the Implementation Plan is again amended or
16 revised. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 1.5.

17 2.6 Gold Coast is a limited liability company operating under the laws of the
18 State of Washington (UBI Number 602188493). Any reference to Gold Coast includes its
19 assigns, agents, employees, members, officers, owners, partners, shareholders,
20 stockholders and successors. Gold Coast is likewise bound by the terms of the
21 Implementation Plan, until such time as the Implementation Plan is again amended or
22 revised. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331. Gold Coast’s
23 registered agent is Scott Grout.

1 2.7 Dennis Dawson and Janis Dawson are named as parties, individually and as
2 husband and wife, and the marital community composed thereof. Dennis Dawson and
3 Janis Dawson own Mason County Parcel No. 22220-41-00081 pursuant to a Statutory
4 Warranty Deed filed October 31, 2012, and as recorded under Mason County Auditor No.
5 1997918. Dennis Dawson and Janis Dawson are bound by the terms of the Implementation
6 Plan, until such time as the Implementation Plan is again amended or revised. *United States*
7 *v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.

8 2.8 Janis Chapman owns Mason County Parcel No. 22220-41-00070 pursuant
9 to a Quit Claim Deed filed July 22, 1999, and as recorded under Mason County Auditor
10 No. 1694509. The Skokomish Indian Tribe was unable to determine if: (a) Janis Chapman
11 is in fact Janis Dawson and spouse of Dennis Dawson; and whether (b) the property is held
12 as a separate asset and not as a community or marital asset. Janis Chapman is bound by
13 the terms of the Implementation Plan until such time as the Implementation Plan is again
14 amended or revised. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.

15 2.9 The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble
16 S’Klallam Tribe and Suquamish Tribe are Indian tribes with a governing body duly
17 recognized by the Secretary of the Interior. 80 Fed. Reg. 1942 (January 14, 2015).

18 2.10 The Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port Gamble
19 S’Klallam Tribe and Suquamish Tribe are furthermore bound by the terms of the
20 Implementation Plan, until such time as the Implementation Plan is again amended or
21 revised. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 1.5.

22 2.11 Over the past four decades, the Jamestown S’Klallam Tribe, Lower Elwha
23 Klallam Tribe, Port Gamble S’Klallam Tribe and Suquamish Tribe have each claimed

1 overlapping usual and accustomed fishing and shellfishing areas in Hood Canal (also
2 known as, “the Twana’s Saltwater”). *United States v. Washington*, C70-9213. With
3 respect to these claims, § 2.5(d) of the Implementation Plan expressly provides:

4 Overlapping Usual and Accustomed Areas. Where two or more Tribes have
5 overlapping usual and accustomed areas, then the combination of tribal harvesting
6 shall not exceed fifty percent of the sustainable harvest biomass, leaving at least
7 fifty percent of the sustainable harvest biomass for non-Indian management.

8 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 2.5(d).

9 Additionally, § 2.5(e) of the Implementation Plan provides:

10 Intertribal Allocation. Allocating the tribal share among affected Tribes shall be
11 determined by the affected Tribes, with the intertribal agreement as appropriate
12 provided to the State. Lack of an intertribal sharing agreement shall not entitle a
13 combination of Tribes to take more than fifty percent of the sustainable harvest
14 biomass of shellfish in a given area.

15 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 2.5(e).

16 2.12 § 6.2 of the Implementation Plan also imposes obligations on affected
17 Indian tribes, not excluded by virtue of the Primary Right, to coordinate the development
18 of harvest plans. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at §
19 6.2.

20 2.13 As such, the Jamestown S’Klallam Tribe, Lower Elwha Klallam Tribe, Port
21 Gamble S’Klallam Tribe and Suquamish Tribe may or may not be affected Indian tribes
22 under terms of the Implementation Plan, but have nonetheless been joined as parties.

23 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at §§ 2.5(d)-(e), § 6.

III. BASIS AND PROCEDURE FOR DISPUTE RESOLUTION SET FORTH IN § 9 OF THE IMPLEMENTATION PLAN

3.1 § 9 of the Implementation Plan expressly authorizes dispute resolution.

United States v. Washington, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 9.

1 3.2 The Implementation Plan also provides that “the Magistrate Judge will hear
2 and determine disputes arising under the implementation plan.” *United States v.*
3 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 9.1.1.

4 3.3 § 9.2 of the Implementation Plan details the procedure for hearing before
5 the Magistrate Judge. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331
6 at § 9.2.

7 **IV. THE DISPUTE: COMPLIANCE WITH THE IMPLEMENTATION PLAN**

8 4.1 The Skokomish Indian Tribe in good faith and while exercising due
9 diligence sought to resolve multiple ongoing disputes with Gold Coast relating to
10 compliance with the Implementation Plan in lieu of the formal dispute resolution process.

11 4.2 Most recently, commencing in Summer of 2014, the Skokomish Indian
12 Tribe and Gold Coast exchanged phone calls and correspondence in an attempt to resolve
13 these disputes. Declaration of Jessica Donovan, Exs. B-M.

14 4.3 Procedurally, as evidenced by this correspondence, the Skokomish Indian
15 Tribe has properly served notice under both §§ 6 and 7 of the Implementation Plan on Gold
16 Coast of its intention to exercise its harvest rights to shellfish for the following tidelands:
17 Mason County parcel number(s) 22202-40-80221, 22202-51-00005, 22217-21-00060,
18 22218-13-00000, 22220-41-00070, 22220-41-00081, 22221-24-00360, 22221-24-00370,
19 22230-50-00009, 22230-50-00010, 22406-51-00012, 22406-51-00903, 32220-50-02008,
20 32220-50-02071, 32220-50-03068, 32224-51-02040, 32225-51-00033, 32225-51-00034,
21 32225-51-00036, 32225-51-00037, 32225-51-00053, 32233-50-00016, 32233-51-00023,
22 32236-50-00001, 32310-50-01001, 32310-50-01002, 32310-50-01900; Kitsap County
23 parcel number(s) 162501-4-016-1004, 192402-1-038-1001, 192402-1-039-1000, 192402-

1 1-083-1005, 192402-1-086-1002, 4438-000-037-0001; and Jefferson County parcel
 2 number(s) 501032008, 602242010, 964600013, 964600502, 964600601. *United States v.*
 3 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at §§ 6, 7; Declaration of Jessica
 4 Donovan, Exs. B-M. More recently, Gold Coast was also served notice under both §§ 6
 5 and 7 of the Implementation Plan of the Skokomish Indian Tribe's intention to exercise its
 6 harvest rights to shellfish for the following tidelands: Mason County parcel number(s):
 7 22406-51-00014; 32235-32-00060; 32234-34-00150; and 32234-34-00170. Declaration
 8 of Jessica Donovan. This pleading furthermore constitutes notice under both §§ 6 and 7 of
 9 the Implementation Plan.

10 4.4 The key unresolved disputes, furthermore, can be gleaned from the
 11 correspondence, declarations, pleadings and exhibits. Declaration of Jessica Donovan, Exs.
 12 B-P; Declaration of Jonathon Wolf; Declaration of Joseph Vukich; Declaration of
 13 Christopher Eardley; Declaration of Jeff Moore; Declaration of Brett Peterson. The
 14 Skokomish Indian Tribe and Gold Coast are unfortunately at an impasse with regard to
 15 these unresolved disputes, which now can only be resolved by the Court.

16 4.5 The first disputed issue involves the application of § 6 and/or § 7 of the
 17 Implementation Plan to the exclusive harvest of wild stock (naturally occurring shellfish)
 18 from parcels without enhanced natural beds or artificial beds. Declaration of Jessica
 19 Donovan, Ex. I at p. 1: ll. 14-17; Declaration of Jessica Donovan, Ex. J at p. 2: ll. 3-7;
 20 Declaration of Jessica Donovan, Ex. K at p. 1: ll. 15-23.

21 4.6 It is the position of the Skokomish Indian Tribe that § 6 of the
 22 Implementation Plan only applies to "Commercial Shellfish Growers". *United States v.*
 23 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6. To be a "Grower" under § 6, a

1 shellfish company must enhance natural beds and/or create artificial beds for a commercial
2 purpose on the tideland. Otherwise, § 7 of the Implementation Plan applies to the shellfish
3 company's operations on that tideland, no different than a private tideland owner (or lease
4 holder), which is merely a harvester of wild stock (naturally occurring shellfish). Gold
5 Coast expressly disputes this interpretation, stating in relevant part “. . . regardless of
6 whether Gold Coast has enhanced the natural beds or is acting, as you term it, ‘merely as a
7 harvester’ of the natural beds, Section 6 and not Section 7 applies.” Declaration of Jessica
8 Donovan, Ex. K at p. 1: ll. 21-23.

9 4.7 It is critical that the Court determine whether § 6 or § 7 applies, because the
10 Implementation Plan provides for significantly different procedures and obligations.

11 4.8 More specifically, a Grower under § 6 can enhance natural beds and/or
12 create artificial beds for a commercial purpose on a tideland, however, the Grower must
13 comply with § 6.3 of the Implementation Plan, which requires that:

14 If a Grower plans to enhance an existing natural bed or create a new artificial bed,
15 the Grower shall give written notice to the affected Tribe(s) of his or her intention.
16 The notice shall be provided at least sixty days prior to the proposed enhancement
17 or creation of the bed and shall include the following: the location and species of
18 the proposed bed and a summary of information known to the Grower regarding
19 the history of harvest and enhancement of any species of shellfish listed in Exhibit
20 A on the property. In addition, the notice shall explain the basis for the Grower's
21 determination that the sustainable yield of shellfish is below the natural bed
22 threshold in Exhibit A or if it is above the threshold, what the sustainable harvest
23 yield is.

19 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.3. In essence,
20 the burden is on the Grower to fully disclose its intended operations, the history of harvests
21 and to conduct a survey consistent with or exceeding the standards utilized by the State of
22 Washington or as otherwise supported by current scientific standards.

1 4.9 This is in stark contrast to the procedures and obligations imposed on the
2 Skokomish Indian Tribe under § 7 of the Implementation Plan for “privately owned
3 tidelands not being used for commercial shellfish *production*”. *United States v.*
4 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 7 (Emphasis added). Specifically,
5 “[a] survey to determine whether shellfish are present shall occur on each privately owned
6 beach no more than once every three years. The cost of the survey is to be paid for by the
7 Tribe. The manner and method of any survey must be of the type currently in use by the
8 State of Washington.” *Id.* at § 7.1.1. Also, “[a]n on-site population estimate shall occur
9 no more than once per year. The costs of any estimate shall be paid by the Tribe.” *Id.* at
10 § 7.1.2. “Shellfish population information and data regarding a privately owned beach
11 shall be shared with WDFW and the Property Owner.” *Id.* at § 7.1.3.

12 4.10 In light of the fact that the Skokomish Indian Tribe and Gold Coast cannot
13 agree on the application of §§ 6 or 7 of the Implementation Plan, the Tribe approached the
14 dispute by both: requesting, in writing, copies of Gold Coast’s surveys and/or population
15 estimates (Declaration of Jessica Donovan, Ex. D, Ex. E, Ex. H, Ex. J, Ex. L); and
16 attempting to conduct Skokomish’s own surveys and/or population estimates. This
17 information is critical because, absent a harvest of, or count of, every single individual
18 shellfish on a beach, surveys are the only scientifically valid and realistic means of
19 determining a shellfish population estimate. Declaration of Christopher Eardley;
20 Declaration Jeff Moore. A scientifically-derived population estimate is necessary for
21 determining resource shares, sustainable harvest yields, and other relevant management
22 metrics. *Id.* Harvest of an entire population of shellfish is also not a sustainable
23 management approach and not authorized by the Skokomish Indian Tribe. *Id.*

1 4.11 With respect to the first request, Gold Coast has not provided reliable
2 records and/or surveys. Declaration of Jonathon Wolf; Declaration of Christopher Eardley;
3 Declaration of Jeff Moore. None of the § 6.3 Notices sent by Gold Coast, furthermore,
4 have provided sufficient information to “explain the basis for the Grower’s determination
5 that the sustainable yield of shellfish is below the natural bed threshold in Exhibit A or if
6 it is above the threshold, what the sustainable harvest yield is.” *United States v.*
7 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.3; Declaration of Jonathon Wolf;
8 Declaration of Christopher Eardley; Declaration of Jeff Moore.

9 4.12 For example, on April 27, 2015, Gold Coast served the Skokomish Indian
10 Tribe with another “empty” 6.3 Notice, this time for Mason County Parcel Nos. 22222-41-
11 00081 (*sic.* 22220-41-000081) and 22220-41-00070. Declaration of Jonathon Wolf, Ex.

12 A. The “empty” 6.3 Notice provides in relevant part:

13 Grower’s Notice of Intent to Create a New Artificial Shellfish Bed or to Enhance
14 an Existing Natural Shellfish Bed under Section 6.3 of the Revised Shellfish
15 Implementation Plan. April 15th 2015. Gold Coast Oyster LLC (360) 426-0379
16 P.O. Box 276 Shelton WA 98584 Mason County 22222-41-00081 & 22220-41-
17 00070 All areas south of the Hood Canal Bridge. Dawson, Dennis. Cultivation to
18 commence 61 days post tribal receipt. See attachment of species cultivation list.
These parcels have been harvested previously by DD Denotta Seafood, Tom
Farmer, and several other growers dating back many generations. This parcel has
had extensive historical cultivation efforts over the decades. WADOH has listings
of previous approvals. This property does not contain any densities set forth by the
SIP.

19 *Id.* This notice does not contain any information showing the location and species of the
20 proposed bed, it simply provided a laundry list of nearly every species known to exist.

21 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.3; Declaration
22 of Jonathon Wolf, Ex. A. In addition, the notice fails to explain the basis for Gold Coast’s

1 determination that the sustainable yield of shellfish is below the natural bed threshold in
2 Exhibit A, (i.e. Reliable survey and/or population estimate). *Id.*

3 4.13 Gold Coast is also required to provide a summary of information known to
4 Gold Coast regarding the history of harvest and enhancement of any species of shellfish
5 listed in Exhibit A on the property. *Id.* Most significantly, it appears that Gold Coast has
6 conveniently forgotten that it harvested oysters from one or both of the parcels during the
7 summer of 2014, prior to finalizing a harvest plan with the Skokomish Indian Tribe.
8 Declaration of Jonathon Wolf; Declaration of Jonathon Wolf, Exs. A-D. The rejected
9 harvest plan proposed by Gold Coast indicated that there was available “an oyster harvest
10 of 2,500 dozen per party for a combined harvest of 5,000 total.” Declaration of Jonathon
11 Wolf, Ex. B. This is clear evidence of the existence of a sustainable harvest biomass (yield)
12 of naturally occurring oysters above the minimum density requirements for that species of
13 shellfish. *Id.*

14 4.14 WDFW Officer Matt Jewett in his narrative dated January 14, 2015, as
15 recorded under Incident Number WA-15-000278, additionally stated:

16 This beach has never had an aquatic farmers licenses, and no evidence of oysters
17 being propagated, farmed, or cultivated under the active supervision and
18 management of a private sector aquatic farmer. Thus, it meets the definition of wild
19 stock. . .

20 After researching the parcel #222204100081, one other commercial shellfish
21 company (DD Denotta LLC) had previously received a Department of Health
22 harvest site certificate for that same parcel back in 2008. A checked with WDFW
23 commercial licensing and found no recorders of Parcel #222204100081 ever having
a aquatic farmers license from DD Denotta LLC, Gold Coast Shellfish or any body
else.

Thus, the beach still meets the wild stock definition. . . .

1 Declaration of Jonathon Wolf, Ex. D. This further evidences Gold Coast's deceptive and
2 unlawful practices.

3 4.15 Additionally, Dennis Dawson and Janis Dawson own Mason County Parcel
4 No. 22220-41-00081 and Janis Chapman owns Mason County Parcel No. 22220-41-00070.

5 Declaration of Jonathon Wolf. The Skokomish Indian Tribe has been in communication
6 with these property owners; and these property owners are aware of the activities of Gold
7 Coast. *Id.* These property owners, however, have chosen not to stop the unlawful activities
8 of Gold Coast, and may in fact be encouraging the activities. *Id.* By aiding, abetting and/or
9 conspiring with Gold Coast to violate the terms of the Treaty of Point No Point and the
10 Implementation Plan, Dennis Dawson, Janis Dawson and Janis Chapman are jointly and
11 severally liable for the actions of Gold Coast. Treaty of Point No Point, 12 Stat. 933;
12 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331. Dennis Dawson, Janis
13 Dawson and Janis Chapman may also be liable for any injuries (harm) sustained by the
14 Skokomish Indian Tribe, as a consequence of their unlawful acts committed independently
15 of Gold Coast. *Id.*

16 4.16 As earlier noted, the Skokomish Indian Tribe also attempted to conduct its
17 own surveys and/or population estimates, which it has no obligation to conduct if Gold
18 Coast is correct and the tidelands are governed by the terms of § 6.3 of the Implementation
19 Plan. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.3. Gold
20 Coast, however, formally objected to the Skokomish Indian Tribe's method of accessing
21 the tidelands. *United States v. Washington*, 384 F. Supp. 312, 376-377 (W.D. Wash. 1974),
22 *affirmed*, 520 F.2d 676 (9th Cir. 1975); *United States v. Washington*, 873 F. Supp. 1422

1 (W.D. Wash. 1994), *affirmed in relevant part*, 157 F.3d 630 (9th Cir. 1998); *United States*
2 *v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.

3 4.17 Gold Coast’s objection is memorialized in writing as follows:

4 It is not true that Gold Coast has refused to allow the Tribe access to the tidelands.
5 Gold Coast has objected to the recent practices of tribal staff members that have
6 circumvented access controls established by Gold Coast, including the beaching of
7 their boats on the tidelands, thereby damaging them. These documented upland
8 trespass incidents have created a financial burden for Gold Coast. Gold Coast has
9 created training films that demonstrate how to access the tidelands in an
10 environmentally responsible manner and Scott Grout of Gold Coast has repeatedly
11 offered to provide instructions to tribal staff members as to how to access the
12 tidelands without damaging them.

9 Declaration of Jessica Donovan, Ex. K at p. 2: ll. 21-25, at p. 3: ll. 3-5.

10 4.18 Gold Coast additionally requires that as to access controls, in violation of
11 the Skokomish Indian Tribe’s Treaty rights and the terms of the Implementation Plan:

12 . . . If tribal staff wants to access any of the tidelands, Gold Coast only asks that
13 access conditions be negotiated and executed in good faith by both parties. All
14 access must be via public waterways. ***At no time shall any boat touch or remain***
15 ***effectively parked on the tidelands.*** Upon arriving on the tidelands we expect the
16 Tribal staff and members to disembark while the boat is still floating in the public
17 waterway before disembarking.

18 Declaration of Jessica Donovan, Ex. K at p. 3: ll. 5-8 (Emphasis added). This is consistent
19 with Gold Coast’s demands in its earlier referenced harvest plan requiring, “[n]o boats may
20 be parked on the tidelands. Harvesters must disembark and keep the boat floating in the
21 public waterway at all times.” Declaration of Jonathon Wolf, Ex. B. This form of
22 disembarking is not expressly or impliedly required by federal law or the Implementation
23 Plan, and most importantly would create a real and imminent risk of injury for individuals,
including elders and youth. Declaration of Brett Peterson; Declaration of Christopher
Eardley; Declaration of Jeff Moore.

1 4.19 In addition to these unlawful access restrictions, Gold Coast objects to the
2 survey and population estimate methodology utilized by the Skokomish Indian Tribe.
3 *United States v. Washington*, 384 F. Supp. 312, 376-377 (W.D. Wash. 1974), *affirmed*, 520
4 F.2d 676 (9th Cir. 1975); *United States v. Washington*, 873 F. Supp. 1422 (W.D. Wash.
5 1994), *affirmed in relevant part*, 157 F.3d 630 (9th Cir. 1998); *United States v. Washington*,
6 C70-9213, Sub. No. 89-3, Dkt. 14331.

7 4.20 Gold Coast requires that:

8 . . . We also request that any need for more than one surveyor be negotiated prior
9 to the site visit.

10 Gold Coast has objected to the Tribe's survey and population methodology, in large
11 part because the Tribe has failed to provide it with any information regarding either
12 its surveys or its methodology. Gold Coast asks that it be provided access to the
13 computer application the Tribe uses for its surveys so that Gold Coast may use it
on its own grounds in an attempt to validate the process, and further asks that it be
provided with field notes of any/all surveys performed in the past as well as in the
immediate future. It also asks that 100% of the parcels it controls be surveyed to
ensure an accurate calculation of the naturally occurring shellfish.

14 Declaration of Jessica Donovan, Ex. K at p. 3: ll. 7-12.

15 4.21 Gold Coast was advised by the Skokomish Indian Tribe that the Skokomish
16 Indian Tribe's surveys and/or population estimates are conducted in a manner and method
17 consistent with what is currently used by the State of Washington. Declaration of Jessica
18 Donovan, Ex. E at p. 1: ll. 16-18; Declaration of Christopher Eardley; Declaration of Jeff
19 Moore. The use of a single surveyor is logistically unacceptable and may result in
20 numerous technical inaccuracies in violation of the terms of the Implementation Plan. *Id.*

21 4.22 The next disputed issue involves the drafting and execution of harvest plans.
22 A tideland pursuant to the terms of § 6.3 of the Implementation Plan can be enhanced by a
23 Grower. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.3. This

1 imposes additional obligations on the Grower, specifically, “[i]f the sustainable yield
 2 density exceeds the natural bed threshold from Exhibit A for the species proposed to be
 3 enhanced, the Grower may enhance the natural bed, however, a harvest plan must be
 4 developed to provide the tribes with fifty percent of the sustainable harvest that would exist
 5 absent the Grower’s proposed enhancement activities.” *Id.* Also, a Grower can establish
 6 an artificial bed on a tideland but the terms of § 6.3 require that, “[w]here shellfish not
 7 proposed for cultivation are identified at levels which exceed the defined natural bed
 8 threshold in Exhibit A in the location where the artificial bed is planned, a harvest plan will
 9 be developed to provide the Tribes with fifty percent of the sustainable harvest of such
 10 natural bed.” *Id.*

11 4.23 § 6.2 of the Implementation Plan at length details the requirements of a
 12 harvest plan, which include, at a minimum: “(1) the times for tribal harvest; (2) the species
 13 and amount of shellfish and the location from which they are to be harvested; (3) the
 14 number of tribal harvesters that can safely be present on a bed to conduct a harvest; (4) the
 15 appropriate method of access that will avoid damage to the Grower’s crops; (5) the method
 16 of harvest, e.g. blanket or spot digging; (6) a process for notification and change of harvest
 17 plan due to unusual circumstances and/or catastrophic mortalities.” *United States v.*
 18 *Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at § 6.2.

19 4.24 § 7 of the Implementation Plan neither requires, nor prohibits the drafting
 20 and execution of harvest plans. *United States v. Washington*, C70-9213, Sub. No. 89-3,
 21 Dkt. 14331 at § 7.

22 4.25 The Skokomish Indian Tribe and Gold Coast have been unable to enter into
 23 harvest plans for virtually all of the tidelands. The Skokomish Indian Tribe has exhausted

1 all reasonable avenues, even including offering Gold Coast the opportunity to unilaterally
 2 prepare the harvest plans for review and consideration. Declaration of Jessica Donovan,
 3 Ex. H. No harvest plans, however, have been submitted to the Skokomish Indian Tribe by
 4 Gold Coast in response to that request. For tidelands located North of Ayock Point on
 5 Hood Canal, as a result of Gold Coast's unbending position, the Skokomish Indian Tribe
 6 has not been able to coordinate with other potentially affected Indian tribes in the drafting
 7 of harvest plans. *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331 at §§
 8 2.5(d)-(e), 6.2, 6.3, 7.

9 4.26 Ultimately, the Skokomish Indian Tribe's rights are continually violated or
 10 disregarded by being denied records and access to tidelands by Gold Coast. Gold Coast
 11 has harvested shellfish and commercially sold these shellfish in Skokomish's Hood Canal
 12 fishery. Declaration of Jessica Donovan, Ex. N. (See Alderbrook Incident – Cause No.
 13 PA 13033 discussed below). The Skokomish Indian Tribe, regrettably absent dispute
 14 resolution, cannot readily account for Gold Coast's harvest of this Treaty resource, i.e.
 15 shellfish.

16 4.27 Even the State of Washington has found it necessary to pursue charges
 17 against Scott Grout of Gold Coast. Scott Grout of Gold Coast was charged in District Court
 18 of the State of Washington in and for the County of Mason under Cause No. PA13033 for
 19 "Selling or offering to sell shellfish without an approved shellfish tag or label – RCW
 20 69.30.020 and 69.30.140" on July 1, 2013. Declaration of Jessica Donovan, Ex. N
 21 (Resolved by \$400.00 Fine). WDFW's report indicated that:

22 . . . The barge was occupied by 6 individuals 5 male and 1 female. The vessel has
 23 36 bags of oysters on board and a large pile of oysters not in bags. None of the
 bags had Certificate Tags in the bags. The foreman of the crew, Nelson I. Salazar-

1 Morales . . . was the main contact on the vessel . . . Officer Jewett obtained the
 2 DOH license for Gold Coast Shellfish. . . Nelson informed me that the oysters had
 3 not been tagged due to the fact that they were still being counted while en route to
 4 the storage beach. Nelson informed me that he was informed by the Grout that the
 oysters could be transported then tagged once they had been counted. I informed
 Nelson that in fact that prior to leaving the beach where harvested, shellfish need
 to have Certificate Tags. . .

5 I returned to the patrol vessel and Officer Jewett and I followed the barge back to
 6 the harvest site. While the shellfish were being off-loaded I had Officer Jewett drop
 7 me off at Alderbrook Resorts Dock. I observed ropes hanging off the west side of
 8 the dock. I inspected the ropes and found 4 bags of Manila Clams (without
 9 Certification Tags) and 8 bags of Oysters (without Certification Tags) hanging from
 10 the ropes. . . Officer Jewett and I met with the General Manager of the Resort Shaun
 11 R. Tucker . . . and the Chef of the Restaurant Lucas J. Sautter . . . to discuss the
 12 shellfish found hanging from the dock. . .

13 Sautter informed us that Gold Coast crews would hang shellfish, both oysters and
 14 clams, from ropes on the dock, and Grout had left blank Manila Clam and Pacific
 15 Oyster Certificate Tags at the restaurant so that when the restaurant went down to
 16 get the shellfish, the restaurant employees (not Gold Coast Employees) could fill
 17 out the Certificate Tags. . .

18 The Alderbrook log has documented 19 different times where Alderbrook
 19 employees had picked up shellfish from the dock that did not have Certificate Tags
 20 filled out by Gold Coast Shellfish Company and 3 times where Scott Grout has
 21 delivered shellfish. . . .

22 *Id.*

23 4.28 Lastly, though there were requests by Gold Coast to meet face to face, the
 Skokomish Indian Tribe declined, after consulting with law enforcement, out of safety
 concerns. Declaration of Jessica Donovan, Ex. E; Declaration of Jessica Donovan, Ex. J
 at p. 2: ll. 10-12; Declaration of Jessica Donovan, Exs. O-Q; Declaration of Joseph Vukich,
 Ex. A; Declaration of Jonathon Wolf.

4.29 These safety concerns are derived in part from Scott Grout's documented
 unlawful harassment of William O. Hunter, Sr., the owner of a family farm located just
 east of the Skokomish Reservation. An Order of Protection – Harassment was issued by

1 the District Court of Washington for the County of Mason on September 14, 2012 in Cause
 2 No. 12CV1008 against Scott Grout of Gold Coast. Declaration of Jessica Donovan, Ex. O.
 3 In that case, the Petitioner William O. Hunter, Sr. alleged under penalty of perjury that:

4 . . . Scott Grout pulled up to my property gate without a required pass or key. He
 5 was told by gate attendant Trevor Savage that he was not allowed to enter without
 6 the required pass or key. At that time Mr. Grout became aggressive and
 7 confrontational with Trevor. Mr. Grout said he was a WA State photographer who
 8 had to be let through – which he is not. . . At that point Mr. Grout had forced his
 9 vehicle into the gate area so the gate could not be closed. He blocked other drivers
 10 from entering or exiting. I personally made several requests that he leave the
 11 property and he refused. He became very aggressive toward me, using very foul
 12 language and loud voice. **He removed his seat-belt and moved toward me in a
 13 way to suggest he was going to do something physical/harm me . . .** As soon as
 I was able I called my son out of fear about what was going to happen. My son met
 them (Scott and Scott's passenger) at their new location and asked what they were
 doing. Scott yelled in a loud and very profane way that my son had no F*****
 right to ask him to leave the property. Based on my son's concerns my son called
 Paul (my other son). Paul became concerned because he could hear the background
 noise and through the phone, and called the Sheriff. Deputy Severence arrived and
 ordered Scott Grout off my property. **I understand that Mr. Grout carries
 weapons, I am elderly and fear he will return to my property and cause
 harm. . . .**

14 Declaration of Jessica Donovan, Ex. O (Emphasis added).

15 4.30 These safety concerns were compounded by Scott Grout's unlawful
 16 harassment of WDFW Officer Matthew Jewett in which an Order of Protection –
 17 Harassment was issued by the District Court of Washington for the County of Mason on
 18 October 18, 2013 in Cause No. 13CV1036. Declaration of Jessica Donovan, Ex. P. The
 19 record in that case also contains a compelling email from Tina L. Hamilton time stamped
 20 for Wednesday, October 2, 2013 at 4:39 PM, which reads:

21 On 10-01-2013, near Shelton, Curtis Scott Grout . . . repeatedly followed Fish and
 22 Wildlife Officer Matt Jewett in a newer green Ford F-250, while Officer Jewett was
 23 on duty. Grout waited at several locations near Shelton then pulled behind Officer
 Jewett and followed him in the vicinity of his residence. Grout did not attempt to
 make contact and Officer Jewett felt that Grout's actions were designed to harass

1 and intimidate. Grout was contacted by Shelton PD and Mason County deputies
 2 during the incident. His intimidating actions against Officer Jewett are under
 investigation by SPD. Grout has an Officer Safety flag with the Mason County
 Sheriff's Office and has previously followed a WSP trooper who had cited him.
 3 When stopped by trooper, ***Grout was armed with a pistol. Grout has repeatedly
 referenced owning firearms.*** Grout is the owner of Gold Coast Shellfish Company
 4 in Shelton. The company predominately operates in Mason and Jefferson Counties.
 WDFW Officers have had numerous contacts with Grout in recent years and cited
 5 him for several DOH violations. ***Grout's behavior has become increasingly
 hostile and erratic, especially to law enforcement personnel. Extreme caution
 6 should be used when contacting Grout.*** Please document all contacts with Grout
 in an IRF.

7
 8 *Id.* (Emphasis added).

9 4.31 On June 30, 2014, the Skokomish Indian Tribe began to document Scott
 10 Grout of Gold Coast demonstrating hostility against the Tribe. CAD Call of June 30, 2014,
 No. 2014063000000798. Scott Grout of Gold Coast contacted Washington State Patrol
 11 and reported in apparent reference to the Skokomish Indian Tribe and/or its staff, the
 12 following:

13 Grout- parking in drive ways loitering uh harassing intimidation ah I mean those
 14 are its an escalation of that's a key word to use an escalation of intimidation and of
 harassment that's going to lead to violence and if you could do that sentence right
 15 there as is its perfectly

16 State patrol- ok so I have escalation of intimidation and harassment

17 Grout- that's leading to that that is ***going to lead to a violent episode***

18 *Id.* (Taken from transcript of the CAD Call, with emphasis added).

19 4.32 On July 15, 2014, Scott Grout of Gold Coast later emailed Jonathon Wolf,
 20 Deputy Director for the Skokomish Natural Resources Department accusing the
 21 Skokomish Indian Tribe and/or its staff of improper conduct. The email provided in part:

22 Stalking, intimidation, harassment, profiling, etc. How many laws can they
 23 continue to blatantly and openly violate? I did contact WSP and reported the
 incident. A trooper attempted to contact me but we were unable to speak directly.

1 I have been hiding in my basement out of fear of ongoing harassment. Let's file.
2 How can their attorney defend this action? Thank god I had a witness. I have been
3 forced to purchase a "go camera" so that I may document these on going illegal
4 illicit acts. Can we have a sit down at a neutral location? I'm concerned that they
5 are going to kill me and ***I may be forced to defend myself by any means available.***
6 This escalation is not acceptable.

7 Scott

8 Declaration of Jonathon Wolf, at ¶ 5 (Emphasis added).

9 4.33 Shortly thereafter the Skokomish Indian Tribe responded in writing to the
10 attorney for Gold Coast, David Cullen, denying any wrong doing. The letter from the
11 Skokomish Indian Tribe entitled "The Skokomish's Response to Meeting Request for
12 September 2014", dated August 25, 2014 and attached as Exhibit E to the Declaration of
13 Jessica Donovan states:

14 Lastly, Scott Grout of GCO has claimed on multiple occasions that the Skokomish's
15 staff, law enforcement and legal department are threatening or intimidating him.
16 These claims by Mr. Grout are patently false. The Skokomish have neither taken
17 nor have threatened to take any unlawful action against Grout or GCO. The
18 Skokomish Indian Tribe has, however, clearly indicated its intention to utilize legal
19 action to compel GCO to comply with federal and state laws, as well as, the terms
20 of the Implementation Plan.

21 Declaration of Jessica Donovan, Ex. E at p. 1: ll. 22-25.

22 4.34 After the foregoing letter was sent, a conversation occurred on or about
23 November 6, 2014, in which Joseph Vukich, Chief of Police for the Skokomish Indian
Tribe, reported that:

Yesterday afternoon I was asked by Dispatch to return a telephone call to Scott
Grout. He'd initially called the Sheriff's Office to register a harassment/threats
complaint.

I spoke with Mr. Grout who was polite during our conversation. He told me that his
company was in an untenable position with Tribe. He told me that some 15 papers
were served on the company as well as on private land owners. Earle Lees name

1 was on all the papers. Following the paper service, he received calls from many of
2 the land owners who felt harassed and intimidated by the letters. . .

3 He told me he was contacting the Sheriff's Office to seek a protection order because
4 of the threats and harassment caused by the letters sent by Earle Lees. He read to
5 me the statutory definition of harassment and intimidation. I corrected him and
6 explained that this being a non-domestic situation, he would have to seek an anti-
7 harassment order. . . .

8 Declaration of Joseph Vukich, Exhibit A at p. 1: ll. 12-17, at p. 2: ll. 10-12.

9 4.35 On December 2, 2014, the Skokomish Indian Tribe served Gold Coast with
10 a letter restating the Tribe's continued fears:

11 Please understand that Skokomish staff and I continue to fear for our personal safety,
12 based on what we perceive as threats of harm made by your client. We do still wish
13 to resolve these ongoing disputes. . . .

14 Declaration of Jessica Donovan, Ex. J at p. 2: ll. 10-13 (The reference to client means Scott
15 Grout of Gold Coast).

16 4.36 A short few months after our letter of December 2, 2015, an incident arose
17 between Scott Grout of Gold Coast and the Squaxin Island Tribe, which served as a clear
18 reminder of the perceived danger that Scott Grout of Gold Coast represents. WDFW
19 Enforcement responded to an incident on February 6, 2015, as detailed in Washington
20 Department of Fish & Wildlife Police Incident Report Form for Incident Number WA-15-
21 000728. Declaration of Jessica Donovan, Ex. Q. The WDFW Officer Carl Klein (W21)
22 reported:

23 Upon arriving at 5040 Oyster Bay Rd NW I proceeded down to the beach and
observed several individuals that I immediately recognized including Squaxin
Tribal Officer B. BLANKENSHIP and Scott GROUT . . . A Thurston County
Deputy arrived shortly after me and assisted in keeping the parties present
separated.”

1 Declaration of Jessica Donovan, Ex. Q at p.2: ll. 10-13. The WDFW Officer further
2 reported that, “I contacted GROUT and asked what had taken place that afternoon and he
3 advised that ‘*the tribal thugs* had arrived to harass and threaten him.’” Declaration of
4 Jessica Donovan, Ex. Q at p. 2: ll. 13-14 (Emphasis added).

5 4.37 WDFW Officer Carl Klein (W21) also:

6 . . . spoke with R. BROWN who advised that while SPARKMAN and her were
7 conducting their surveys that GROUT had become confrontational. While she was
8 working on her hands and knees with her attention focused on her work GROUT
9 would stand directly over her. She further claimed that GROUT’s language was
10 getting more excited and derogatory to the point that she felt SPARKMAN and her
could be at risk and that was when she contacted Squaxin Tribal Police. BROWN
advised that when BLANKENSHIP arrived GROUT became very agitated and
started to shout several expletives and racially charged terms that were directed at
BLANKENSHIP.

11 Declaration of Jessica Donovan, Ex. Q at p. 2: ll. 20-24.

12 4.38 WDFW Officer Carl Klein (W21) lastly reported:

13 When I re-contacted GROUT I asked if there was any reason for him to confront
14 the Squaxin Biologist as they conducted their survey and he told me that he wanted
15 to make sure they did it correctly. I reminded him that there was a process in the
Shellfish Implementation Plan to work out disagreements. When asked if his
actions could have been perceived as being aggressive or threatening he told me
that was likely.

16 Declaration of Jessica Donovan, Ex. Q at p. 3: ll. 5-7.

17 4.39 Even though confronted with these documented safety concerns, the
18 Skokomish Indian Tribe negotiated in good faith, thus satisfying all prerequisites and
19 exhausting all reasonable efforts to resolve these disputes. *United States v. Washington*,
20 C70-9213, Sub. No. 89-3, Dkt. 14331. The Skokomish Indian Tribe wants nothing more
21 than to freely exercise its Treaty right consistent with the terms of the Implementation Plan.
22 *United States v. Washington*, C70-9213, Sub. No. 89-3, Dkt. 14331.
23

1 4.40 In sum, Gold Coast has engaged in a purposeful and an intentional pattern
2 of unlawful conduct effectively depriving the Skokomish Indian Tribe of its Treaty right
3 to take shellfish. Gold Coast has: failed to disclose information as required under the
4 Implementation Plan; imposed unlawful “access controls” for tidelands; rejected
5 Skokomish’s valid survey and population estimate methodology; and failed to coordinate
6 the development of harvest plans and/or other arrangements. By their own conduct, Dennis
7 Dawson, Janis Dawson and Janis Chapman are also jointly and severally liable for the
8 actions of Gold Coast and remain liable for their actions taken independently of Gold Coast.

9 4.41 In the Gold Coast Oyster Newsletter Winter 2015, the lead article entitled
10 “Tales of Tribal Turmoil”, is informative regarding Gold Coast’s position on the ongoing
11 disputes between the Skokomish Indian Tribe and Gold Coast:

12 In our newsletter last year, we called your attention to the fact that our local tribes,
13 particularly on the lower Hood Canal, have been more than assertive claiming their
tribal ‘right’ to harvest private tidelands . . .

14 . . . Gold Coast spent much of the fall in meeting with both the Washington
15 Department of Health and Department of Fish and Wildlife to develop a procedure
16 to maintain the privacy of your property, public safety, access conditions, and
17 historical records of harvest sales. Unfortunately neither department could or
would offer any direct intervention in this matter, instead deferring to the provisions
of the 2008 Shellfish Implementation Plan

18 At this point Gold Coast’s position on this is very clear. First, we regard our
19 relationships with our beach owners as a partnership and a trust. We will defend
20 that trust and we will also defend the privacy of that property. Second, while tribes
have a right to INSPECT a beach for the presence of NATURALLY Occuring
shellfish and measure that, Gold Coast will insist on strict conditions of that
inspection to protect the beach, and the rights of the property owner. . . .

21 Declaration of Jessica Donovan, Ex. R. (Emphasis added). Gold Coast also stated, “. . .
22 we will not support any tribal harvest activity until an agreed to quantitative agreement has
23

1 been reached on any challenged property, *or a filing of a motion for dispute resolution if*
2 *agreement cannot be reached.*” *Id.* (Emphasis added.)

3 4.42 Clearly, based on the foregoing evidence, all of the tidelands are
4 “challenged properties” and absent the Court’s intervention, which appears to be agreed
5 upon by Gold Coast, the Skokomish Indian Tribe’s Treaty right to take shellfish is
6 effectively diminished and public safety concerns are left unchecked.

7 **V. PRAYER FOR RELIEF**

8 5.1 WHEREFORE the Skokomish Indian Tribe prays the Court grant the
9 following relief:

- 10 a. A declaration that to be a “Grower” under § 6, a shellfish company must
11 enhance natural beds and/or create artificial beds for a commercial
12 purpose on the tideland, otherwise, § 7 applies to the shellfish
13 company’s operations on that tideland; and
- 14 b. A declaration that Gold Coast has violated, and continues to violate, the
15 Implementation Plan resulting in unlawful interference with the
16 Skokomish Indian Tribe’s right to harvest shellfish under Article IV of
17 the Treaty of Point No Point, by:
- 18 i. Failing to comply with notice requirements including under both
19 §§ 6 and 7 of the Implementation Plan; and
- 20 ii. Failing to disclose information as required under the
21 Implementation Plan; and
- 22 iii. Imposing unlawful “access controls” for tidelands; and
- 23

1 iv. Rejecting the manner and method by which the Skokomish
2 Indian Tribe validly performs surveys and population estimates;
3 and

4 v. Failing to coordinate the development of harvest plans and/or
5 other arrangements, thereby, effectively stopping harvests by the
6 Skokomish Indian Tribe; and

7 vi. Otherwise, failing to comply with the terms of the
8 Implementation Plan, as the Court may determine during the
9 course of the dispute resolution process; and

10 c. An Order requiring and directing Gold Coast:

11 i. To submit to the Skokomish Indian Tribe, by a date set by the
12 Court, a list of all Hood Canal tidelands that are currently under
13 Gold Coast's control through agreements, contracts, leases, or
14 otherwise for purposes of conducting shellfishing activities; and

15 ii. For each listed Hood Canal tideland, submit to the Skokomish
16 Indian Tribe all information required under the Implementation
17 Plan and law of this case, as well as all other records (including
18 daily harvest reports, weigh out records, fish receiving tickets
19 and invoices) showing any harvests of shellfish by Gold Coast
20 on Hood Canal tidelands; and

21 iii. To fully comply with all requirements of the Implementation
22 Plan and abide by the laws of the State of Washington and the
23 United States of America; and

1 d. A declaration, with respect only to Mason County Parcel Nos. 22220-
2 41-00081 and 22220-41-00070, that:

3 i. By aiding, abetting and/or conspiring with Gold Coast to violate
4 the terms of the Treaty of Point No Point and the Implementation
5 Plan, Dennis Dawson, Janis Dawson and Janis Chapman are
6 jointly and severally liable for the actions of Gold Coast; and

7 ii. Dennis Dawson, Janis Dawson and Janis Chapman are also
8 liable for any injuries (harm) sustained by the Skokomish Indian
9 Tribe, as a consequence of their unlawful acts committed
10 independently of Gold Coast; and

11 e. A declaration, with respect to other property owners which are joined at
12 a later date, that:

13 i. By aiding, abetting and/or conspiring with Gold Coast to violate
14 the terms of the Treaty of Point No Point and the Implementation
15 Plan, these property owners are jointly and severally liable for
16 the actions of Gold Coast; and

17 ii. These property owners are also liable for any injuries (harm)
18 sustained by the Skokomish Indian Tribe, as a consequence of
19 their unlawful acts committed independently of Gold Coast.

20 f. An injunction enjoining and prohibiting, directly or indirectly, Gold
21 Coast and any person acting on behalf of or in concert with Gold Coast,
22 including Scott Grout, from harvesting shellfish on any Hood Canal
23

1 tidelands, whether before or after a Skokomish survey or population
2 estimate, until such time as one of the following occurs:

- 3 i. Gold Coast and the Skokomish Indian Tribe have entered into
4 harvest plans or harvest arrangements that provide for the
5 implementation of the Skokomish's Treaty right to take the
6 Treaty share of the shellfish on all Hood Canal tidelands; and
- 7 ii. The Skokomish Indian Tribe has agreed in writing or the United
8 States District Court has determined that the proposed Hood
9 Canal tidelands do not contain naturally occurring shellfish
10 beds; and
- 11 iii. The Skokomish Indian Tribe has indicated in writing that it does
12 not intend to exercise its Treaty right to take shellfish from the
13 Hood Canal tidelands; and
- 14 g. An injunction enjoining and prohibiting, directly or indirectly, Gold
15 Coast and any person acting on behalf of or in concert with Gold Coast,
16 including Scott Grout, from:
- 17 i. Possessing any weapons, including but not limited to firearms,
18 while in the presence of Skokomish members, staff or
19 contractors; and
- 20 ii. Making threats of injury (harm) or otherwise intimidating
21 Skokomish members, staff or contractors; and
- 22
23

- 1 h. An award of compensation for all shellfish harvested in violation of the
2 Implementation Plan from the Skokomish Indian Tribe's Treaty share;
3 and
4 i. The award of attorney's fees and costs; and
5 j. For leave to amend the pleadings to incorporate additional tidelands
6 owned or controlled by Gold Coast; and
7 k. For leave to join additional property owners as may be necessary and to
8 amend the pleadings accordingly; and
9 l. Such other and further relief as the Court deems just and proper.

10 Dated this 8th day of May, 2015.

11 s/Earle David Lees, III, WSBA No. 30017
12 Skokomish Legal Department
13 Skokomish Indian Tribe
14 N. 80 Tribal Center Road
15 Skokomish Nation, WA 98584
16 Email: elees@skokomish.org
17 Tel: 360.877.2100
18 Fax: 360.877.2104
19 *Attorney for the Skokomish Indian Tribe*

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2015, I electronically filed the *Skokomish Indian Tribe's Request for Dispute Resolution under § 9 of the Revised Shellfish Implementation Plan Re: Gold Coast Oyster LLC; Dennis Dawson and Janis Dawson, Individually and as Husband and Wife, and the Marital Community Composed thereof; Janis Chapman; Jamestown S'Klallam Tribe; Lower Elwha Klallam Tribe; Port Gamble S'Klallam Tribe; and Suquamish Tribe* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties which are registered with the CM/ECF system.

Dated this 8th day of May, 2015.

s/Earle David Lees, III, WSBA No. 30017
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