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THE SUQUAMISH INDIAN TRIBE

PO Box 498 Suquamish, WA 98392-0498

December 12, 2024

Clerk of Court
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *Confederated Tribes of the Colville Reservation, et al. v. Teck Cominco Metals LTD*,
Docket Number 24-5565, Originating Case Number: 2:04-cv-00256-SAB

To the Honorable Panel of the United States Court of Appeals for the Ninth Circuit,

The Suquamish Indian Tribe of the Port Madison Reservation submits this letter as amici in the above-captioned case, in support of this Panel reversing the District Court's Order. *See* Circuit Advisory Committee Note to Rule 29-1. The Tribe joins Argument Section A of the Opening Brief submitted by the Confederated Tribes of the Colville Reservation [DN13.1], joins the Argument Section of the Amicus Brief submitted by the Spokane Tribe of Indians [DN18.1], and joins Argument Section I of the Amicus Brief that will be submitted by the Native American Rights Fund. Not joining all sections of those briefs should not be read as disagreement with those sections, but rather that the Tribe lacks sufficient information to make an informed decision on them. For example, the sections not joined may pertain to other tribe's backgrounds or claims that the Tribe is not familiar with.

The Suquamish Indian Tribe is a federally recognized Indian Tribe with a governing body recognized by the United States Secretary of the Interior. The Tribe is located on the Port Madison Reservation in Suquamish, Washington in Kitsap County. The Tribe is a signatory of the 1855 Treaty of Point Elliott, in which the Tribe forever reserved its right to take fish among other reserved rights. Since time immemorial and up to the present day, the Tribe and its members engage in subsistence, cultural, and commercial harvesting of finfish and shellfish throughout the adjudicated usual and accustomed fishing area of the Tribe ("U&A"). *See United States v. Washington*, 459 F. Supp. 1020, 1049 (W.D. Wash. 1978). Suquamish U&A encompasses a large portion of Puget Sound, from the northern tip of Vashon Island to the Fraser River in Canada. The Tribe is involved in the co-management of fisheries resources with the State of Washington. The Tribe engages in other water-dependent cultural activities, conservation efforts, clean-up activities and other fisheries resource recovery activities throughout its U&A.

The Suquamish Indian Tribe has participated in clean-up activities at several contaminated sites in Puget Sound since the mid-1990s. Currently the Tribe oversees clean-up activities at nine EPA Superfund sites and two Department of Ecology led Model Toxics Control Act (MTCA) sites. Additionally, the Tribe currently serves as co-trustee on four Natural Resource Damage

Assessment and Restoration (NRDAR) Trustee Councils. These include Port Gardner Bay, Port Gamble Bay, Bremerton Gas Works and the Elliott Bay Trustee Council. The Elliott Bay Trustee Council oversees and manages restoration activities at several cleanup sites including, Harbor Island, Lower Duwamish River, Eagle Harbor/Wycoff and the Lockheed Superfund Site.

The Suquamish Indian Tribe expends a vast amount of its resources in cleanup and restoration work within its U&A in an effort to preserve its water-dependent cultural activities and fisheries resources for its citizens and future Suquamish generations. The Tribe and its citizens depend on healthy access to and abundant fishery resources in Puget Sound. These resources support the health, economic, cultural, and spiritual wellbeing of the Tribe and its citizens. When the abundance of these resources or access to them are threatened by contamination, water quality and sediment contamination, other pollution, habitat destruction and modification, water quality impairment, or numerous other avoidable and preventable anthropogenic pressures, the Tribe and each of its citizens are harmed.

Respectfully submitted in support of reversing the District Court's Order,



Kendra A. Martinez
Tribal Attorney
Suquamish Indian Tribe

Certificate of Service

I hereby certify that I electronically filed the foregoing document on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing System. I also hereby certify that I served the foregoing document on all counsel having appeared via the Appellate Case Management System.

I declare under penalty of perjury under the laws of the State of Colorado and the United States that the foregoing is true and correct.

DATED this 12th day of December, 2024 at Denver, Colorado.

s/ Michael M. Frandina

Michael M. Frandina, Esq.

The Askman Law Firm

Outside Counsel to the Suquamish Tribe