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BY           <sup>1</sup>           DEPUTY

SUPERIOR COURT OF WASHINGTON FOR MASON COUNTY

In re:

THE PORT OF TAHUYA,  
a Washington port district

NO. **05 2 01083 9**

DECLARATION OF BRAD SMITH  
IN SUPPORT OF PETITION FOR  
DISSOLUTION OF PORT DISTRICT

BRAD SMITH declares:

**I. BACKGROUND**

**1.1.** I am a member of the Port of Tahuya Board of Commissioners, and am one of the petitioners in this case.

**1.2.** The Port of Tahuya is located in Mason County, and is a municipal corporation organized pursuant to RCW Title 53, governing port districts.

**1.3.** Jim Christen and I constitute the majority of the Port of Tahuya Board of Commissioners, which is the governing authority of the Port of Tahuya Port District. Dan McPhee was the third member of the Board of Commissioners through October <sup>19 85</sup> 21, 2005, but has since resigned.

**1.4.** At a special meeting of the Port of Tahuya Board of Commissioners held on <sup>August 85</sup> ~~October~~ 31, 2005, the Commissioners unanimously voted to seek the dissolution of the Port.

**1.5.** The following facts support the dissolution of the Port:

3

1 **2. BACKGROUND FACTS - HISTORY OF THE PORT OF TAHUYA:**

2 **2.1.** The Port of Tahuya was created in 1925 to support the logging industry in the Tahuya area.

3 **2.2.** The Port of Tahuya was deactivated in 1953 and reactivated in 1973.

4 **2.3.** From 1953 to 1984, it is somewhat unclear what the activities of the Port were.

5 **2.4.** The Port's activities since 1973 have not resulted in any purchase of land nor the building of  
6 any facilities that directly support any economic development, including any commerce  
7 moving from the water inland or from inland to the water for transport to other destinations.

8 **2.5.** The Port of Tahuya developed a comprehensive plan in 1984.

9 **2.6.** The Port of Tahuya in 1993 amended the 1984 comprehensive plan to obtain grant funding for  
10 a recreational facility called "Menard's Landing".

11 **2.7.** In looking back at the process used by the Port of Tahuya, there is a reasonable question as to  
12 whether a proper process was used to establish the plan, and whether the building of the  
13 facility was within the powers of the Port District, since Menard's Landing is strictly a  
14 recreational facility and thus does not fall within the scope of a Port's duties as outlined by  
15 Title 53 of the Revised Code of Washington.

16 **2.8.** The Port minutes reflect that the Port established Menard's Landing was because the  
17 commissioners felt the Port was in danger of being dissolved due to inactivity since the Port  
18 had done nothing for so long, and creating Menard's Landing would eliminate that possibility.  
19

20 **3. PORT'S RECENT HISTORY**

21 **3.1.** In 2002 the Port of Tahuya Commissioners began developing a "Public Access Plan" to amend  
22 the current comprehensive plan.

23 **3.2.** The Port Commissioners who were in office at the time placed the adoption of the plan on  
24 their regular monthly meeting agenda in August 2003.  
25

1 **3.3.** A large number of people who were opposed to the Public Access Plan showed up at the Port  
2 meetings and requested a more formal public input process before adoption. However, the  
3 then-current Port Commissioners voted to adopt the plan.

4 **3.4.** Since that action, one commissioner was voted out of office, another commissioner resigned  
5 and was replaced by a vote of the Mason County Commissioners, and another commissioner  
6 has been recalled and replaced.

7 **3.5.** Also, two lawsuits have been filed and won by citizens in the district including an action to un-  
8 adopt the Public Access Plan.

9 **3.6.** The Public Access Plan as originally adopted was un-adopted and removed from the Port of  
10 Tahuya's Comprehensive Plan by Commissioners Christen and McPhee on 02/16/2005.

11 **3.7.** The significant events that lead up to this decision are as follows:

12 **3.7.1.** The Port of Tahuya's legal counsel recommended removal and un-adoption.

13 **3.7.2.** A motion was made, seconded and approved by Commissioners Gilbert and Christen on  
14 03/17/2004 to begin the process to un-adopt and remove the Public Access Plan from the  
15 Port of Tahuya's Comprehensive Plan. However, the process of un-adoption was not  
16 completed.

17 **3.7.3.** Two public hearings were held at which the large majority of citizens were in favor of  
18 un-adoption and removal of the Public Access Plan.

19 **3.7.4.** The Port of Tahuya's Citizen's Advisory Committee issued a report on October 16,  
20 2004 that recommended un-adoption and removal of the Public Access Plan from the Port  
21 of Tahuya's Comprehensive Plan.

22 **3.7.5.** A lawsuit was filed against the Port of Tahuya by Residents for Preservation of Quality  
23 of the Hood Canal demanding formal un-adoption of the Public Access Plan and its  
24  
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1 removal from the Port of Tahuya's Comprehensive Plan. Mason County Superior Court  
2 issued an order on 11/15/2004 (Case # 04 2 00954 9) requiring un-adoption and removal  
3 of the Public Access Plan from the Port of Tahuya's Comprehensive Plan.

4 **3.7.6.** The Port of Tahuya Commission complied with the court's order.

5 **4. CURRENT OPERATING STATUS OF THE PORT:**

6 **4.1.** The Port of Tahuya has approximately \$158,000 in an investment account and has annual  
7 revenue of approximately \$26,000, of which \$25,000 comes directly from taxes.

8 **4.2.** Currently the tax rate is 12.5 cents per thousand dollars of property value with a current  
9 authorized upper limit of 45 cents per thousand dollars of property value available to the  
10 commissioners.

11 **4.3.** The Port has an annual operating expense of approximately \$27,000. The Port district does not  
12 generate any operating revenue.

13 **4.4.** The Port has no office, no office hours, no phone, no current web site, no staff, no paper,  
14 pencils, computers, or any other essentials for operating a port district. The cost of properly  
15 equipping and staffing a Port office and bringing the Port in compliance with State statutes  
16 would significantly increase operating expenses in an already burdensome budget. Since the  
17 Port does not generate any revenue and has no intention of doing so, any increase in Port  
18 expenses would result in an increase in the burden on taxpayers, without any significant  
19 benefit to the community.

20 **4.5.** The Port is unable to obtain insurance coverage for its commissioners.

21 **4.6.** The Port of Tahuya has not acquired any land nor has it proposed any projects under its charter  
22 except for the Public Access Plan discussed in the preceding section.  
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1 4.7. The citizens of the Port District have not brought any potential projects forward to The Port of  
2 Tahuya.

3 4.8. There are no current legal actions against the Port of Tahuya.

4 4.9. Menard's Landing, the Port's sole property, is located at 18931 NE North Shore Road in  
5 Tahuya, on an open public channel that empties onto Hood Canal at high tide. It includes a  
6 hand-carry boat launch, a gazebo, portable bathroom facilities, and a picnic table. It has no  
7 running water or electricity and hours of operation are from dawn to dusk.

8 4.10. A map of the current Port of Tahuya District is attached for reference.

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10 **5. PUBLIC INPUT ON THE FUTURE OF THE PORT**

11 5.1. The subject of the Port's dissolution was discussed at numerous recent port public meetings.

12 5.2. In addition to receiving public comments at its regular public meetings, the Port  
13 Commissioners held a public hearing to collect additional public comment to determine  
14 whether dissolution of the Port of Tahuya is in the public's interest.

15 5.3. Notice of the meeting was published and posted, and mailed to residents and voters.

16 5.4. At the hearing, 18 members of the public spoke in favor of dissolution, and two persons spoke  
17 in favor of retaining the Port. The persons who spoke in favor of retaining the Port did so  
18 based on their desire to retain the Menard's Landing facility, but did not address the need for,  
19 function, or effectiveness of the Port.

20 5.5. Based on the public comments received at the public meeting, the public hearing, and the other  
21 comments received in writing by the Port, the Board of Commissioners voted to authorize their  
22 legal counsel to commence dissolution proceedings.

23 5.6. The Petition filed with this Court carries out the direction of the Port Commissioners.  
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1 **6. PETITION FOR DISSOLUTION OF PORT DISTRICT OF TAHUYA**

2 **6.1.** The Petitioners seek dissolution of the Port District of Tahuya.

3 **6.2.** The best interests of all persons concerned will be served by the proposed dissolution.

4 **6.3.** The Port District of Tahuya is solvent.

5 **7. REQUEST FOR RELIEF**

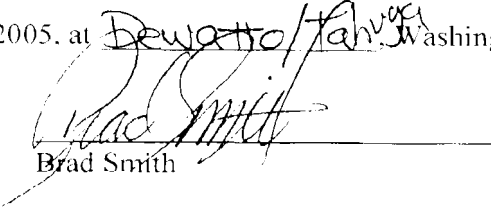
6 **7.1.** Petitioner requests that the Court enter an Order dissolving the Port:

7 **7.2.** The Court should find that the Port of Tahuya is solvent, and should order the sale of Port  
8 assets, other than cash, by the sheriff of the county in which the board is situated, in the  
9 manner provided by law for the sale of property on execution. RCW 53.48.040.

10 **7.3.** The Court should order that the Port shall pay the fees and costs of the dissolution  
11 proceedings, including its legal fees and costs, prior to dissolution and any transfer of Port  
12 funds to the school district.

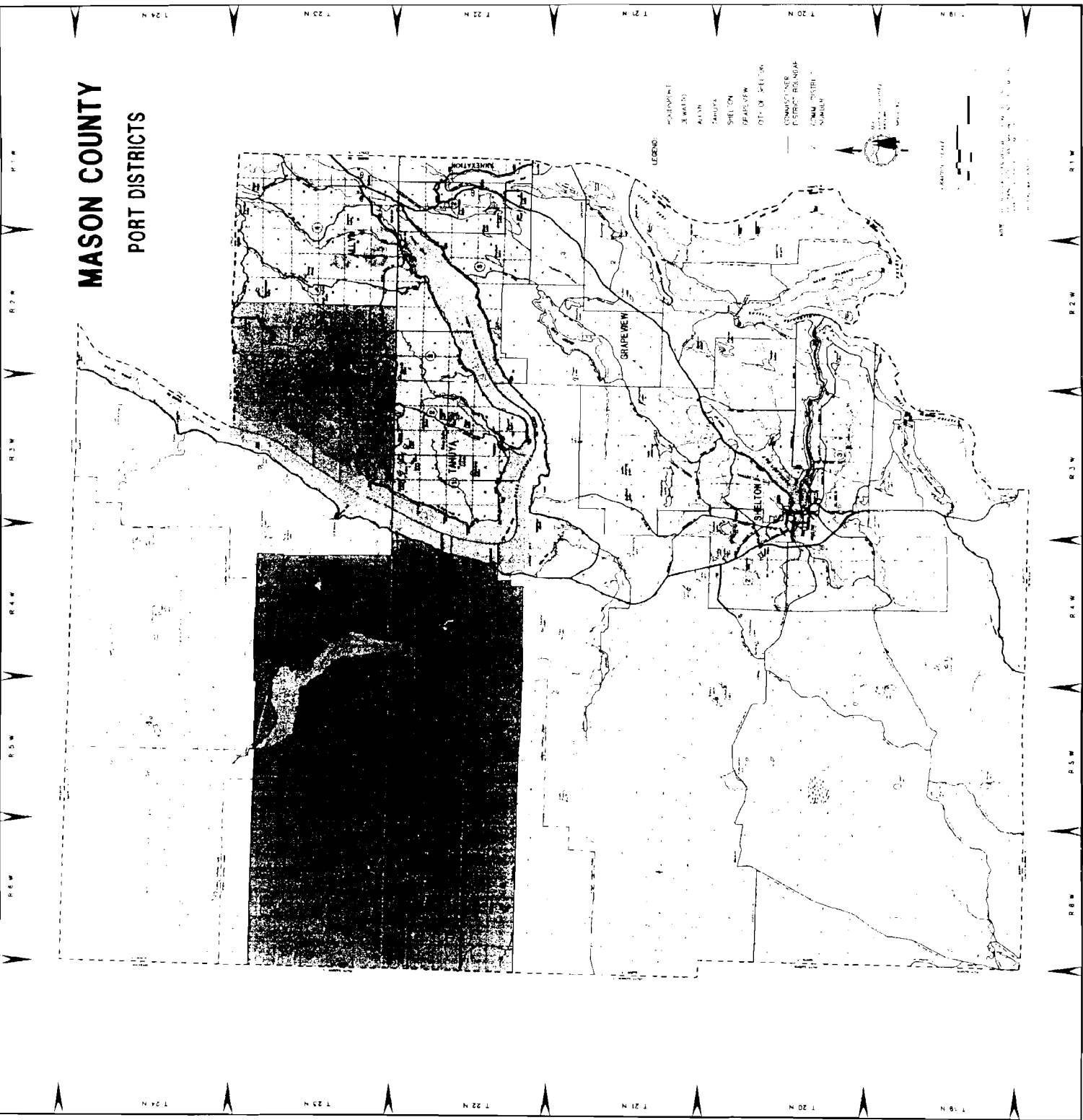
13  
14 I declare under penalty of perjury under the laws of the State of Washington that the foregoing  
15 is true and correct to the best of my knowledge and belief.

16 Dated this 7 day of November, 2005, at Duwatto/Tahuya Washington.

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25  
Brad Smith

# MASON COUNTY

## PORT DISTRICTS



LEGEND:  
WATERPOINT  
WALD  
ADJ  
TOWNSHIP  
SHELTON  
GRAPESLOW  
OT. OF SHELTON  
CONDUITLINE  
PERIOD BOUNDARY  
LOCAL TOWNSHIP  
NUMBER



AMERICAN STATE  
MAP COMPANY  
1910  
MASON COUNTY, WEST VIRGINIA  
PORT DISTRICTS