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SUPERIOR COURT OF WASHINGTON FOR MASON COUNTY

In re:

THE PORT OF TAHUYA,  
a Washington port district

NO. **05 2 01083 9**

PETITION FOR DISSOLUTION  
OF PORT DISTRICT  
(RCW 53.48)

Petitioners JIM CHRISTEN and BRAD SMITH respectfully state:

**1. JURISDICTION AND VENUE**

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

1.2. This Court has jurisdiction over this case pursuant to RCW 53.48.020.

1.3. Petitioners JIM CHRISTEN and BRAD SMITH constitute all of the Port of Tahuya Board of Commissioners, which is the governing authority of the Port of Tahuya Port District. DAN McPHEE was also a member of the Port of Tahuya Board of Commissioners on August 31, 2005, and at a special meeting of the Board of Commissioners held on that day also voted in favor of this Petition, but has since resigned.

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

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

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

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

1 2.4. The Port's activities since 1973 have not resulted in any purchase of land nor the building of  
2 any facilities that directly support any economic development, including any commerce  
3 moving from the water inland or from inland to the water for transport to other destinations.

4 2.5. The Port of Tahuya developed a comprehensive plan in 1984.

5 2.6. The Port of Tahuya in 1993 amended the 1984 comprehensive plan to obtain grant funding for  
6 a recreational facility called "Menard's Landing".

7 2.7. In looking back at the process used by the Port of Tahuya, there is a reasonable question as to  
8 whether a proper process was used to establish the plan, and whether the building of the  
9 facility was within the powers of the Port District, since Menard's Landing is strictly a  
10 recreational facility and thus does not fall within the scope of a Port's duties as outlined by  
11 Title 53 of the Revised Code of Washington.  
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### 13 3. PORT'S RECENT HISTORY

14 3.1. In 2002 the Port of Tahuya Commissioners began developing a "Public Access Plan" to amend  
15 the current comprehensive plan.

16 3.2. The Port Commissioners who were in office at the time placed the adoption of the plan on  
17 their regular monthly meeting agenda in August 2003.

18 3.3. A large number of people who were opposed to the Public Access Plan showed up at the Port  
19 meetings and requested a more formal public input process before adoption. However, the  
20 then-current Port Commissioners voted to adopt the plan.  
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22 3.4. Since that action, one commissioner was voted out of office, another commissioner resigned  
23 and was replaced by a vote of the Mason County Commissioners, and another commissioner  
24 has been recalled and replaced.  
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1 **3.5.** Also, two lawsuits have been filed and won by citizens in the district including an action to un-  
2 adopt the Public Access Plan.

3 **3.6.** The Public Access Plan as originally adopted was un-adopted and removed from the Port of  
4 Tahuya's Comprehensive Plan by Commissioners Christen and McPhee on 02/16/2005.

5 **3.7.** The significant events that lead up to this decision are as follows:

6 **3.7.1.** The Port of Tahuya's legal counsel recommended removal and un-adoption.

7 **3.7.2.** A motion was made, seconded and approved by Commissioners Gilbert and Christen on  
8 03/17/2004 to begin the process to un-adopt and remove the Public Access Plan from the  
9 Port of Tahuya's Comprehensive Plan. However, the process of un-adoption was not  
10 completed.

11 **3.7.3.** Two public hearings were held at which the large majority of citizens were in favor of  
12 un-adoption and removal of the Public Access Plan.

13 **3.7.4.** The Port of Tahuya's Citizen's Advisory Committee issued a report on October 16,  
14 2004 that recommended un-adoption and removal of the Public Access Plan from the Port  
15 of Tahuya's Comprehensive Plan.

16 **3.7.5.** A lawsuit was filed against the Port of Tahuya by Residents for Preservation of Quality  
17 of the Hood Canal demanding formal un-adoption of the Public Access Plan and its  
18 removal from the Port of Tahuya's Comprehensive Plan. Mason County Superior Court  
19 issued an order on 11/15/2004 (Case # 04 2 00954 9) requiring un-adoption and removal  
20 of the Public Access Plan from the Port of Tahuya's Comprehensive Plan.

21 **3.7.6.** The Port of Tahuya Commission complied with the court's order.  
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1 **4. CURRENT OPERATING STATUS OF THE PORT:**

2 4.1. The Port of Tahuya has approximately \$158,000 in an investment account and has annual  
3 revenue of approximately \$26,000, of which \$25,000 comes directly from taxes.

4 4.2. Currently the tax rate is 12.5 cents per thousand dollars of property value with a current  
5 authorized upper limit of 45 cents per thousand dollars of property value available to the  
6 commissioners.

7 4.3. The Port has an annual operating expense of approximately \$27,000. The Port district does not  
8 generate any operating revenue.

9 4.4. The Port has no office, no office hours, no phone, no current web site, no staff, no paper,  
10 pencils, computers, or any other essentials for operating a port district. The cost of properly  
11 equipping and staffing a Port office and bringing the Port in compliance with State statutes  
12 would significantly increase operating expenses in an already burdensome budget. Since the  
13 Port does not generate any revenue and has no intention of doing so, any increase in Port  
14 expenses would result in an increase in the burden on taxpayers, without any significant  
15 benefit to the community.

16 4.5. The Port is unable to obtain insurance coverage for its commissioners.

17 4.6. The Port of Tahuya has not acquired any land nor has it proposed any projects under its charter  
18 except for the Public Access Plan discussed in the preceding section.

19 4.7. The citizens of the Port District have not brought any potential projects forward to The Port of  
20 Tahuya.

21 4.8. There are no current legal actions against the Port of Tahuya.

22 4.9. Menard's Landing, the Port's sole property, is located at 18931 NE North Shore Road in  
23 Tahuya, on an open public channel that empties onto Hood Canal at high tide. It includes a  
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25

1 hand-carry boat launch, a gazebo, portable bathroom facilities, and a picnic table. It has no  
2 running water or electricity and hours of operation are from dawn to dusk.

3 4.10. A map of the current Port of Tahuya District is attached for reference.

4 **5. STATUTORY REASONS FOR A PORT DISTRICT TO EXIST.**

5 5.1. A port district operates primarily under Title 53 of the Revised Code of Washington (RCW).

6 5.2. A port district is established by a vote of the people in a specific area to support the economic  
7 development within that area.

8 5.3. The port district, once established, is in the business of acquiring land, developing land, and  
9 constructing and operating facilities on the land it owns.

10 5.4. The funds that a port uses to conduct business can come from a variety of sources, including:  
11 property taxes, grants, gifts, special levies or bonds, and income from operating its facilities.

12 5.5. Based on the land and facilities the port owns, the five general areas of activity for the port are:  
13 marinas including boat ramps and piers, marine terminals, airports, industrial land  
14 development, and economic development/tourism.

15 5.6. Under the state statutes, a port is only required to have a comprehensive scheme for the port  
16 district.

17 5.7. At a minimum, this would include a description of the port's inventory, a general statement of  
18 how the port intends to spend its money (most often with a Mission, Goals, and Objectives  
19 process), and a general description of how the port district intends to implement its plans (such  
20 as a capital improvement plan).

21 5.8. While not required under state statute, a port district with sizeable inventory of land and  
22 facilities is encouraged to develop a more formal comprehensive plan in line with other  
23 municipalities along with a contemporary strategic planning process.  
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1 5.9. The purpose of the plan is to allow an average citizen the ability to understand where and how  
2 the port is going to spend its funds.

3 **6. PUBLIC INPUT ON THE FUTURE OF THE PORT**

4 6.1. The subject of the Port's dissolution was discussed at numerous recent port public meetings.

5 6.2. In addition to receiving public comments at its regular public meetings, the Port  
6 Commissioners held a public hearing to collect additional public comment to determine  
7 whether dissolution of the Port of Tahuya is in the public's interest.

8 6.3. Notice of the meeting was published and posted, and mailed to residents and voters.

9 6.4. At the hearing, 18 members of the public spoke in favor of dissolution, and two persons spoke  
10 in favor of retaining the Port. The persons who spoke in favor of retaining the Port did so  
11 based on their desire to retain the Menard's Landing facility, but did not address the need for,  
12 function, or effectiveness of the Port.

13 6.5. Based on the public comments received at the public meeting, the public hearing, and the other  
14 comments received in writing by the Port, the Board of Commissioners voted to authorize their  
15 legal counsel to commence dissolution proceedings.

16 6.6. This Petition carries out the direction of the Port Commissioners.

17 **7. STATUTORY PROCESS FOR DISSOLUTION OF A PORT DISTRICT**

18 7.1. The Revised Code of Washington (RCW) sets forth the following process for dissolution of a  
19 Port District.

20 7.2. The dissolution process begins with the filing of a petition for an order of dissolution signed  
21 by the majority of the board of commissioners, or other governing authority of such district in  
22 the superior court of the county in which the board of commissioners is situated. RCW  
23 53.48.020.  
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1 7.3. Upon the filing of such petition for an order of dissolution, the superior court shall enter an  
2 order setting the same for hearing at a date not less than thirty days from the date of filing, and  
3 the clerk of the court of said county shall give notice of such hearing by publication in a  
4 newspaper of general circulation in the county in which the district is located once a week for  
5 three successive weeks, and by posting in three public places in the county in which the district  
6 is located at least twenty-one days before said hearing.

7 7.4. At least one notice shall be posted in the district. The notices shall set forth the filing of the  
8 petition, its purpose and the date and place of the hearing thereon. RCW 53.48.030.

9 7.5. After said hearing the court shall enter its order dissolving or refusing to dissolve said district.

10 7.6. A finding that the best interests of all persons concerned will be served by the proposed  
11 dissolution shall be essential to an order of dissolution.

12 7.7. If the court finds that such district is solvent, the court shall order the sale of such assets, other  
13 than cash, by the sheriff of the county in which the board is situated, in the manner provided  
14 by law for the sale of property on execution. RCW 53.48.040.

15 7.8. The court shall make provision for the costs and expenses of the dissolution proceedings and  
16 for the payment of the same. RCW 53.48.120

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18 **8. PETITION FOR DISSOLUTION OF PORT DISTRICT OF TAHUYA**

19 8.1. Petitioners incorporate by reference paragraphs 1.1 through 7.8 above.

20 8.2. The Petitioners seek dissolution of the Port District of Tahuya.

21 8.3. This Petition complies with the requisite state law.

22 8.4. The best interests of all persons concerned will be served by the proposed dissolution.

23 8.5. The Port District of Tahuya is solvent.  
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1 **9. REQUEST FOR RELIEF**

2 9.1. Petitioners request that the Court enter an Order for Dissolution as follows:

3 9.2. Pursuant to RCW 53.48.030, the superior court should enter an Order setting the same for  
4 hearing at a date not less than thirty days from the date of filing of this Petition, and the clerk  
5 of the court of said county shall give notice of such hearing by publication in a newspaper of  
6 general circulation in the county in which the district is located once a week for three  
7 successive weeks, and by posting in three public places in the county in which the district is  
8 located at least twenty-one days before said hearing.

9  
10 9.3. At least one notice shall be posted in the district. The notices shall set forth the filing of the  
11 petition, its purpose and the date and place of the hearing thereon. RCW 53.48.030.

12 9.4. The Court should find that the best interests of all persons concerned will be served by the  
13 proposed dissolution.

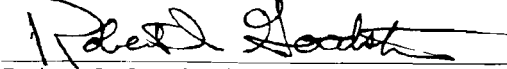
14 9.5. The Court should enter an order dissolving said district.

15 9.6. The Court should find that the Port of Tahuya is solvent, and should order the sale of Port  
16 assets, other than cash, by the sheriff of the county in which the board is situated, in the  
17 manner provided by law for the sale of property on execution. RCW 53.48.040.

18 9.7. The Court should order that the Port shall pay the fees and costs of the dissolution  
19 proceedings, including its legal fees and costs, prior to dissolution and any transfer of Port  
20 funds to the school district.

21 Dated this 14<sup>th</sup> day of November, 2005.

22  
23 GOODSTEIN LAW GROUP PLLC

24 By:   
25 Robert J. Goodstein, WSBA #17163  
Attorney for Petitioner Port of Tahuya



# MASON COUNTY

## PORT DISTRICTS

