

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SNOHOMISH COUNTY

FRIENDS OF GUEMES ISLAND, a  
Washington non-profit corporation,

Plaintiff,

v.

SKAGIT COUNTY BOARD OF  
COMMISSIONERS, and SKAGIT  
COUNTY,

Defendants.

NO.

VERIFIED COMPLAINT FOR WRIT  
OF PROHIBITION, WRIT OF  
REVIEW, CONSTITUTIONAL WRIT  
OF CERTIORARI, APPEAL UNDER  
RCW 43.21C.075, AND STAY

Friends of Guemes Island, a Washington non-profit corporation, (“FGI” or  
“Plaintiff”) avers and alleges as follows:

**I. RELIEF REQUESTED**

1.1 FGI requests, in the alternative, a statutory Writ of Prohibition pursuant to  
RCW 7.16.290, a statutory Writ of Review pursuant to RCW 7.16.030, a Constitutional Writ  
of Certiorari, an order in response to Appeal under RCW 43.21C.075, together with a stay,  
in order to restrain and prohibit the Skagit County Board of Commissioners and Skagit

1  
2  
3 County from extending the weekday evening hours of operation of the Guemes Island Ferry  
4 without a valid and adequate determination of nonsignificance or a valid and adequate  
5 environmental impact statement as required by the State Environmental Policy Act (chapter  
6 43.21C RCW) as implemented by chapter 197-11 WAC, and chapter 14.12 Skagit County  
7 Code (“SCC”) and to void Skagit County Resolution # R20060184 that purports to so extend  
8 such weekday evening hours of operation.

9  
10 **II. FACTUAL BASIS FOR COMPLAINT**

11 2.1 Guemes Island is a Class 2 island (accessible only by ferry and private boat)  
12 in Skagit County that is located just north of the City of Anacortes.

13 2.2 Currently, a single ferry runs between Anacortes and Guemes Island and on  
14 weekdays (Monday through Thursday) scheduled ferry service ends at approximately 6 pm.

15 2.3 The Guemes ferry runs to midnight on Fridays and Saturdays, and runs to 10  
16 pm on Sundays and holidays.

17 2.4 On May 30, 2006, the Skagit County Board of County Commissioners  
18 adopted Resolution # R20060184 (Exhibit 1 hereto) extending scheduled ferry service on  
19 weekdays (Monday through Thursday) to 10 pm.

20 2.5 Resolution # R20060184 states that the new extended ferry schedule “**shall**  
21 **be implemented no later than July 1, 2006.**”<sup>1</sup>

22 2.6 Resolution # R20060184 is a legislative proposal that qualifies as a action  
23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Emphasis supplied.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

under WAC 197-11-704.

2.7 WAC 197-11-704 has been adopted by reference by the local SEPA regulations in SCC 14.12.230.

2.8 Statewide SEPA regulations provide:

A threshold determination is required for any proposal which meets the definition of action and is not categorically exempt [with exceptions not herein relevant].

WAC 197-11-310(1).

2.9 WAC 197-11-310 has been adopted by reference by the local SEPA regulations in SCC 14.12.070.

2.10 The proposal to extend scheduled ferry service hours on weekdays is not categorically exempt. See WAC 197-11-305 and WAC 197-11-800.

2.11 WAC 197-11-305 and WAC 197-11-800 have been adopted by reference by the local SEPA regulations in SCC 14.12.070 and SCC 14.12.240.

2.12 Statewide SEPA regulations define a threshold determination:

“Threshold determination” means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt (WAC 197-11-310 and 197-11-330(1)(b)).

WAC 197-11-797.

2.13 WAC 197-11-797 has been adopted by reference by the local SEPA regulations in SCC 14.12.230.

2.14 Statewide SEPA regulations define an EIS:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

“EIS” means environmental impact statement.

WAC 197-11-738.

2.15 WAC 197-11-738 has been adopted by reference by the local SEPA regulations in SCC 14.12.230.

2.16 Statewide SEPA regulations define a determination of nonsignificance:

“Determination of nonsignificance” (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required (WAC 197-11-310 and 197-11-340).

WAC 197-11-734.

2.17 WAC 197-11-734 has been adopted by reference by the local SEPA regulations in SCC 14.12.230.

2.18 For a proposal that requires a threshold determination, no action may be taken that would have an adverse impact on the environment or limit the choice of reasonable alternatives until there is a final DNS or final EIS:

Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would:

- (a) Have an adverse environmental impact; or
- (b) Limit the choice of reasonable alternatives.

WAC 197-11-070(1).

2.19 WAC 197-11-070 has been adopted by reference by the local SEPA regulations in SCC 14.12.020.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2.20 Skagit County is a governmental agency. WAC 197-11-714; SCC 14.12.230.

2.21 The action adopting a Resolution extending the scheduled weekday hours of operation of the ferry from ending at 6 pm to ending at 10 pm is an action that limits the choice of reasonable alternatives for providing cost-effective ferry service to Guemes Island.

2.22 The action of implementing the new ferry schedule by July 1, 2006 is an action that has an adverse environment impact.

2.23 Immediate adverse environmental impacts will be the impacts of increased weeknight car, truck, and ferry traffic, including impacts of light, noise, and air pollution that will be adverse to the people who live adjacent to the ferry support facilities and/or adjacent to where the vehicles wait in line to use the ferry.

2.24 Impacts under SEPA include short term and long term effects.

Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.

WAC 197-11-060(4)(c); SCC 14.12.020.

2.25 Impacts include both direct and indirect impacts including the impacts of growth stimulated by the later scheduled weeknight hours of access to the island.

A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.

WAC 197-11-060(4)(d); SCC 14.12.020.

2.26 When Skagit County previously increased the physical size of the Guemes

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ferry to its current size, the County concluded in its Environmental Impact Statement for that proposal that while changing the size of the ferry would not cause a probable significant adverse environment impact on population, housing and land use on Guemes Island, **changing the ferry schedule would have a significant adverse impact:**

As our previous evaluations have shown, changes in ferry sizing will not have a significant effect on population, housing, and land use. Ferry scheduling, however, will. Similarly direct and indirect impacts to the existing transportation system are related more to the schedule of the proposed ferry than its size.

Exhibit 2 hereto at page 6.

2.27 In the record (Exhibit 3 hereto), an expert report on SEPA impacts states that an Environment Impact Statement is appropriate for this action:

Ferry service currently ends at 6 PM, Monday through Thursday. This ferry schedule has served to restrain the resident population to those willing to live with limited transportation access.

....  
The island was designated a sole source aquifer by the Dept. of Ecology and availability of potable water for human and livestock consumption has been a local issue for many years. The Guemes aquifer is under significant pressure with existing development conditions as evidenced by the salt water intrusion into wells in areas of denser development.

....  
While San Juan County has completed an extensive water resource management plan that offers some insight into the nature of the geology and water supply of the San Juan Islands and developed policies to shape development in the face of an overtaxed resource, Skagit County has apparently not even begun [water resource management] planning for Guemes.

....  
By increasing trips and extending the hours of ferry operation, [the County] would make living on the island more attractive

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

to new home buyers and increase demand for development of additional homes. It would also create more demand among seasonal visitors.

....

Additional homes would cause even further pressure on potable water supplies. Home builders are currently allowed to introduce new individual wells to supply homes they build without obtaining a water right or permit from the Department of Ecology. As there has been no watershed planning or analysis to determine how much water is available for withdrawal or any planning to prevent saltwater intrusion by limiting withdrawals to sustainable rates, it is reasonable to conclude that additional wells would have a negative impact on the Guemes aquifer.

....

The combination of increased withdrawals and less permeation would further reduce the supply of potable water in the Guemes aquifer and cause more saltwater intrusion.

.....

Ground water levels are directly connected with water levels in wetlands. If the ground water level is lowered by over-withdrawal, the impact to existing wetlands on Guemes . . . might be a reduction in size or even total eradication. Species dependent on local wetlands would be impacted by a lack of drinking water and habitat. Threatened species identified as using this habitat in Map 11 of the [July 24, 2000 Skagit County Comprehensive Plan Map Portfolio]<sup>2</sup> would be directly impacted.

....

The impact of the introduction of piped water would be to create intense demand for new housing and forever alter the rural nature of the island. . . . Increased water supply would increase effluent entering on-site septic systems [eventually causing failures].

....

In the near shore locations, septic system failure causes untreated effluent flows into the shore water directly impacting

---

<sup>2</sup> Map 11 shows that about 70% of the shoreline area within about 1000 feet from the shoreline is habitat for endangered or threatened priority species on Guemes Island.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

wildlife and their habitat. Commercial shellfish harvesting is often closed due to contamination.

.....  
Sensitive areas must not be supplied with services that attract unwanted or inappropriate development. In extending the service schedule for the ferry, local decision makers must understand the direct and indirect, short-term and long-term impacts this action would have on Guemes Island. In order to do so, they must complete the analysis for the subarea plan and water resource management plan. Within this context they must designate Guemes island as a [Critical Aquifer Recharge Area] and develop protection standards to avoid further saltwater intrusion. Without this planning and analysis, the complicated issues and impacts of further development in a sole source aquifer that appears to be nearing its maximum output cannot be fully understood.

.....  
It would be appropriate for Skagit County to issue a Determination of Significance for this action so that the necessary study of the impact can be thoroughly analyzed in an Environmental Impact Statement.

Exhibit 3 hereto at 2-5.

2.28 There is no analysis in the record that indicates that an Environmental Impact Statement is not necessary.

2.29 The current Skagit County Comprehensive Plan directs that Skagit County shall prepare a community (subarea) plan for Guemes Island that addresses sole-source aquifer issues, ferry service, and rural character. Exhibit 4 hereto.

2.30 The community planning group for Guemes Island has been established by Resolution # R20030037 (Attachment A to Exhibit 4 hereto).

2.31 The work plan for Guemes Island community planning has been reviewed and approved by Resolution # 20050025 (Attachment B to Exhibit 4 hereto).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2.32 A 2006 survey of registered voters on Guemes Island found that 75% of these voters opposed expansion of the existing ferry schedule. Exhibit 5 hereto.

2.33 Expansion of the existing ferry schedule is inconsistent with Comprehensive Plan Policy 9A-6.1 which states:

Skagit County supports expansion of public transportation service into the unincorporated areas only with public support.

2.34 Public Works data shows ferry traffic has decreased since 2003 (10% for walk-on passengers, 20% for cars and drivers). Exhibit 5 hereto.

2.35 Expansion of the existing ferry schedule is inconsistent with Comprehensive Plan Policy 9A-8.2 which states:

To meet future increases in demand, the County shall increase service capacity of the Guemes Island Ferry by: (a) encouraging car-pooling and walk-on passengers; (b) increasing the frequency of ferry runs based on demand; and (c) considering additional ferry capacity if the aforementioned procedures fail to accommodate demand.

2.36 There is no demonstrated need for increase in demand with ferry traffic decreased since 2003.

2.37 Expansion of the ferry schedule is not consistent with the procedures to meet demand as specified in Comprehensive Plan Policy 9A-8.2

2.38 In 2004, the County adopted the Guemes Island Ferry Task Force Final Recommendations in Resolution # R20040051.

2.39 These adopted Final Recommendations state that the ferry schedule should

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

be designed to meet the demand “**within the currently defined schedule day**”<sup>3</sup> without extending that schedule day. Exhibit 6 hereto.

2.40 The County spent \$300,000 to a consultant to develop the Task Force Recommendations. Exhibit 7 hereto.

2.41 The extended ferry schedule is inconsistent with planning policies in said Resolution # R20040051.

2.42 The adoption of Resolution # 20060184 (Exhibit 1 hereto) and the implementation of an extended weekday schedule day for the Guemes ferry by July 1, 2006 without a threshold determination and without adequate environmental analysis is the subject of the instant complaint.

**III. NAME AND MAILING ADDRESS OF THE PLAINTIFF**

3.1 The name and address of Plaintiff is:

Friends of Guemes Island  
7885 Guemes Island Road  
No. 16  
Anacortes, WA 98221

**IV. NAME AND ADDRESS OF THE PLAINTIFF’S ATTORNEY**

4.1 The name, address, phone, and email of Plaintiff’s attorney is:

Gerald Steel, PE  
Attorney-at-Law  
7303 Young Road NW  
Olympia, WA 98502

---

<sup>3</sup> Emphasis supplied.

1  
2  
3 Phone/Fax: (360) 867-1166  
Email: [geraldsteel@yahoo.com](mailto:geraldsteel@yahoo.com)

4 **V. NAME AND MAILING ADDRESS OF THE RESPONDENTS**

5 5.1 The name and mailing address of the local jurisdiction is:

6 Skagit County  
7 c/o County Auditor  
8 700 S. Second St, Rm. 201  
9 Mount Vernon, WA 98273

10 5.2 The name and mailing address of the Board of County Commissioners is:

11 Ken Dahlstedt, Don Munks, Ted Anderson  
12 Skagit County BOCC  
13 1800 Continental Place, Suite 100  
14 Mount Vernon, WA 98273

15 **VI. IDENTIFICATION OF THE DECISION MAKING BODY**

16 6.1 The Board of County Commissioners made up of Ken Dahlstedt, Don Munks,  
17 and Ted Anderson is the decision-making body.

18 **VII. ACTION UNDER APPEAL**

19 7.1 The action under appeal is the Board of County Commissioners' Resolution  
20 # R20060184 adopted May 30, 2006 authorizing a new ferry passage schedule to be  
21 implemented no later than July 1, 2006.

22 7.2 Specifically, FGI seeks a determination from this Court that the Board of  
23 County Commissioner's erred by taking this action without a valid and adequate  
24 determination of nonsignificance or a valid and adequate final EIS such that Resolution #  
25 R20060184 should be voided and the County Commissioners prohibited from extending the  
26

1  
2  
3 weekday ferry schedule until this Court finds that the County has a valid and adequate  
4 determination of nonsignificance or a valid and adequate Environmental Impact Statement.

5 **VIII. JURISDICTION AND VENUE**

6 8.3 Jurisdiction is proper in this Court pursuant to the constitutional writ of  
7 certiorari; the statutory writ of review (RCW 7.16.030), writ of prohibition (RCW 7.16.290),  
8 and chapter 43.21C RCW (SEPA).

9 8.4 Venue is appropriate in Snohomish County Superior Court pursuant to RCW  
10 36.01.050(1).

11 **IX. STANDING**

12  
13 9.1 The purpose of FGI is to support the rural character and peaceful environment  
14 of Guemes Island and support its sustainable lifestyle.

15 9.2 FGI represents member who will be "specifically and perceptibly harmed" by  
16 the extension of weekday ferry hours of operation.

17 9.3 FGI members own property and/or live adjacent to the ferry support facilities  
18 or adjacent to where vehicles wait in line to use the ferry facilities and these members will  
19 be adversely impacted by the increase in car, truck, and ferry traffic, including impacts from  
20 light, noise, and air pollution, on weekday nights from extended ferry hours of operation.

21  
22 9.4 Currently the entire neighborhood near the ferry facilities quiets down on  
23 weekdays after the 6 pm run. With the extended weekday hours, increased light, noise, and  
24 air pollution, caused by scheduled ferry operation, will not be over until after the 10 pm run.

25 9.5 The environmental quality that FGI seeks to protect is within the zone of  
26

1  
2 interests of SEPA.

3  
4 **X. GROUNDS OF APPEAL**

5 **CLAIMS PRESENTED AND FACTUAL BASIS FOR EACH ISSUE**

6 10.1 The other paragraphs in this complaint are re-alleged and incorporated herein.

7 10.2 The following claims are filed pursuant to the Statutory Writ of Prohibition,  
8 (RCW 7.16.290), Statutory Writ of Review (RCW 7.16.030), the Constitutional Writ of  
9 Certiorari, and SEPA (RCW 43.21C.075).

10 **STATUTORY WRIT OF PROHIBITION**

11 10.3 The other paragraphs in this complaint are re-alleged and incorporated herein.

12 10.4 Pursuant to RCW 7.16.290, the Writ of Prohibition “**arrests the proceedings**  
13 **of any tribunal, corporation, board, or person, when such proceedings are without or**  
14 **in excess of the jurisdiction of such tribunal, corporation, board or person.**”<sup>4</sup>

15  
16 10.5 As set forth in Section 2, the Board of County Commissioners and Skagit  
17 County are proceeding without or in excess of the jurisdiction of this board and municipal  
18 corporation by taking actions to adopt Resolution # R20060184 and implement an extended  
19 weekday operating schedule for the Guemes ferry in violation SEPA as implemented by  
20 statewide SEPA rules and local SEPA regulations.

21  
22 10.6 A Writ of Prohibition may be issued when there is no adequate remedy at law.  
23 RCW 7.16.300.

24  
25  
26 <sup>4</sup> Emphasis added.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

10.7 Here, the Board of County Commissioners and Skagit County have taken actions in excess of their authority under WAC 197-11-070(1) and SCC 14.12.020(adopting WAC 197-11-070 by reference). Unless an alternative writ of prohibition is issued pursuant to RCW 7.16.310, commanding the Board of County Commissioners and Skagit County to desist from further proceedings to implement an extended weekday operating schedule for the Guemes ferry until this judicial appeal is resolved on its merits, and commanding the Board of County Commissioners and Skagit County to show cause why they should not be absolutely restrained from extending the weekday ferry schedule before they have adopted a valid and adequate determination of nonsignificance or a valid and adequate EIS, the extended schedule will be implemented by July 1, 2006 to the detriment of Plaintiff and its members and Plaintiff and its members will be deprived of meaningful relief because the extended weekday ferry schedule will be implemented through an unlawful process.

**STATUTORY WRIT OF REVIEW**

10.8 The other paragraphs in this complaint are re-alleged and incorporated herein.

10.9 The Statutory Writ of Review is available pursuant to RCW 7.16.030. Such a Writ shall be granted **“when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer, or one acting illegally, or to correct any erroneous or void proceeding, or a proceeding not according to the course of the common law, and there is no appeal, nor in the judgment of the court, any plain, speedy and adequate remedy at law.”**

9.10 As set forth in Section 2, the action by the Board of County Commissioners,

1  
2  
3 to the degree permitted by law may be reviewed by a Writ of Review for unlawful, arbitrary  
4 or capricious action but this court should find that the plain, speedy and adequate remedy at  
5 law should be achieved by the Writ of Prohibition.

6 10.11 To the extent that relief is not afforded by the Writ of Prohibition, a Writ of  
7 Review may be appropriate in order to grant Plaintiff timely and meaningful relief.

8 **CONSTITUTIONAL WRIT OF REVIEW**

9 10.12 The other paragraphs in this complaint are re-alleged and incorporated herein.

10 10.13 A constitutional writ of review is available if there is no other adequate  
11 remedy at law and if the decision below is arbitrary, capricious or contrary to law.  
12 Washington State Constitution, Art. IV, Sec. 6.

13 10.14 To the extent the requested relief is not afforded through a Writ of Prohibition  
14 or Writ of Review, Plaintiff requests that this Court find that the Board of County  
15 Commissioners and Skagit County acted contrary to law when they implemented an extended  
16 weekday ferry schedule without adequate SEPA review.

17 **SEPA**

18 10.15 The other paragraphs in this complaint are re-alleged and incorporated herein.

19 10.16 RCW 43.21C.075 provides a basis for challenging whether a governmental  
20 action is in compliance with the substantive and procedural requirements of SEPA.

21 10.17 Here, in taking actions to implement an extended weekday ferry schedule, the  
22 Board of County Commissioners is violating RCW 43.21C.030 and -.031 as implemented  
23 by rules adopted pursuant to RCW 43.21C.110 and -.135 including WAC 197-11-070(1)  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(adopted by reference by SCC 14.12.020) and including rules requiring a valid and adequate determination of nonsignificance or a valid and adequate Environmental Impact Statement.

10.18 The interests of Plaintiff and its members are in the zone of interests protected by SEPA and Plaintiff, on behalf of its members, has alleged injury in fact.

10.19 Plaintiff has demonstrated that an Environmental Impact Statement is appropriate for a proposal that would consider extension of the weekday ferry schedule.

10.20 This Court should prohibit the extension of the weekday ferry schedule until Skagit County has adopted a final determination of nonsignificance or final Environmental Impact Statement, and/or until such final determination of nonsignificance or final Environmental Impact Statement has been found adequate by this Court.

**XI. RELIEF REQUESTED**

11.1 The other paragraphs in this complaint are re-alleged and incorporated herein.

11.2 FGI respectfully requests that this Court issue an alternative writ of prohibition pursuant to RCW 7.16.310, commanding the Board of County Commissioners and Skagit County to desist from further proceedings to implement the extension of the weekday ferry schedule for the Guemes ferry until Skagit County has adopted a final determination of nonsignificance or final Environmental Impact Statement, and/or until such final determination of nonsignificance or final Environmental Impact Statement has been found adequate by this Court, or on appeal, by an appellate Court.

11.3 In the alternative, FGI requests that similar relief be granted by statutory or constitutional writ of review, and/or under RCW 43.21C.075 (SEPA).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11.4 FGI respectfully requests that the Court order Skagit County to produce the relevant record so that the Court can conduct such additional evidentiary hearing as it deems appropriate.

11.5 FGI respectfully requests that the Court find that the Board of County Commissioners and Skagit County 1) violated SEPA and acted outside authority in adopting Resolution # R20060184, 2) is violating SEPA and acting outside authority by taking actions to implement an extended weekday ferry schedule without either a valid and adequate determination of nonsignificance or a valid and adequate final Environmental Impact Statement.

11.6 FGI seeks an order to void Resolution # R20060184 and cease implementation of an extended weekday ferry schedule, and to require the Board of County Commissioners and Skagit County to present a valid and adequate determination of nonsignificance or a valid and adequate final Environmental Impact Statement to this Court before the order ceasing implementation of an extended weekday ferry schedule can be lifted.

11.7 Terek requests statutory attorney fees and costs.

11.8 Terek requests such other relief as this Court finds just and equitable.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**XII VERIFICATION**

12.1 Gary Davis, the president of FGI, and the undersigned attorney for Plaintiff have read the forgoing Complaint for Review and believe the factual contents to be true under penalty of perjury and the laws of the State of Washington.

Dated this 13<sup>th</sup> day of June, 2006 in Mount Vernon, WA.

\_\_\_\_\_  
Gary Davis

Dated this 13<sup>th</sup> day of June, 2006 in Olympia, WA.

Respectfully submitted,

By: \_\_\_\_\_  
Gerald Steel, PE  
WSBA #31084  
Attorney for Plaintiff

FGI6a12.06