

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 09, 2023**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSEPH A. PAKOOTAS, an individual  
and enrolled member of the Confederated  
Tribes of the Colville Reservation; and  
DONALD R. MICHEL, an individual and  
enrolled member of the Confederated  
Tribes of the Colville Reservation; and  
THE CONFEDERATED TRIBES OF  
THE COVILLE RESERVATION,

Plaintiffs,

*and*

THE STATE OF WASHINGTON,  
Plaintiff-Intervenor,

v.

TECK COMINCO METALS, LTD., a  
Canadian corporation,  
Defendant.

No. 2:04-CV-00256-SAB

**ORDER DENYING  
DEFENDANT’S MOTION FOR  
CERTIFICATION UNDER  
28 U.S.C. § 1292(b)**

**ORDER DENYING DEFENDANT’S MOTION FOR CERTIFICATION  
UNDER 28 U.S.C. § 1292(b) \*1**

1 Before the Court is Defendant’s Motion for Certification Under 28 U.S.C.  
2 § 1292(b) of Orders on Ripeness and for Stay, ECF No. 2636. The motion was  
3 considered without oral argument. Defendant moves to certify two Orders for  
4 interlocutory appeal that address whether Plaintiffs’ claims for natural resource  
5 damages are ripe. A district court has discretion under 28 U.S.C. § 1292(b) to  
6 certify a ruling for interlocutory appeal when it (1) “involves a controlling question  
7 of law”; (2) “there is substantial ground for difference of opinion”; and (3) “an  
8 immediate appeal from the order may materially advance the ultimate termination  
9 of the litigation.” 28 U.S.C. § 1292(b). In this case, the Court finds the § 1292(b)  
10 factors are not met, and certification of either Order for interlocutory appeal is not  
11 warranted.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. Defendant’s Motion for Certification Under 28 U.S.C. § 1292(b) of  
14 Orders on Ripeness and for Stay, ECF No. 2636, is **DENIED**.

15 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
16 this Order and to provide copies to counsel.

17 **DATED** this 9th day of August 2023.



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A handwritten signature in blue ink that reads "Stanley A. Bastian".

23 Stanley A. Bastian  
24 Chief United States District Judge