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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA, et al.,
Plaintiffs,
vs.
STATE OF WASHINGTON, et al.,
Defendants.

Civ. No. C70-9213
Subproceeding No. 14-02
JOINT STIPULATION AND ORDER OF
DISMISSAL WITH PREJUDICE OF
NISQUALLY INDIAN TRIBE’S CLAIM
II

Pursuant to LCR 7(d)(1) and 10(g) and Fed. R. Civ. Proc. 41(a), the parties Nisqually Indian Tribe (“Nisqually”) and Squaxin Island Tribe (“Squaxin”), through their undersigned counsel of record, hereby stipulate to the following:

STIPULATION

WHEREAS, Nisqually filed this subproceeding against Squaxin alleging two claims: (1) that Squaxin Island did not have usual and accustomed fishing grounds and stations in the waters in and around Anderson Island, also referred to as the Subproceeding Area, as determined by Judge Boldt in Final Decision #I (Claim I); and (2) that the Squaxin Island Tribe is barred by judicial estoppel, collateral estoppel, and finality of judgments from fishing in the Subproceeding Area waters as a result of Judge Craig’s Order *Findings of Fact and Conclusions of Law Re: Determination of Additional Usual and Accustomed Fishing Places of Nisqually, Puyallup, and Squaxin Island Tribes, United*

1 *States v. Washington*, 626 F. Supp. 1405, 1441-1442 (W.D. Wash. 1985) as set forth in
2 paragraphs 7.1 through 7.13, inclusive, of Nisqually's Request for Determination (Dkt. No.
3 6) (Claim II);

4 WHEREAS, on June 15, 2016, Judge Martinez entered an order on Claim I (Dkt.
5 #50) denying Nisqually's motion for summary judgment (Dkt. #37) and granting Squaxin
6 Island's motion for summary judgment (Dkt. #36);

7 WHEREAS, Judge Martinez left the case open for Nisqually to pursue Claim II as
8 presented in its Request for Determination;

9 WHEREAS, Nisqually, Squaxin and the Puyallup Tribe engaged in discovery with
10 respect to Claim II;

11 WHEREAS, Nisqually has now decided to dismiss with prejudice its Claim II
12 under Federal Rule of Civil Procedure 41(a)(1), and to seek a final judgment as to the
13 Court's Orders in Dkt. Nos. 50, 56 (Order Denying in Part Nisqually's Motion for
14 Reconsideration) and 59 (Order Denying Motion for Reconsideration); and

15 WHEREAS, Squaxin supports Nisqually's decision to dismiss with prejudice
16 Claim II.

17 THEREFORE, THE NISQUALLY TRIBE AND SQUAXIN ISLAND TRIBE
18 STIPULATE that Claim II of the above-captioned subproceeding is dismissed with
19 prejudice, that Claim II is terminated, that each Party shall bear its own costs; and that the
20 Court enter final judgment as to its Orders (Dkt. # 50, 56, 59).

21 Respectfully submitted this 9th day of March, 2017,

22 *Attorney for the Nisqually Indian Tribe*

23 s/ Maryanne E. Mohan
24 Maryanne E. Mohan, WSBA #47346
25 4820 She-Nah-Num Dr. S.E.
26 Olympia, WA 98513
Telephone: (360) 456-5221
Fax: (360) 486-9543
Email: mohan.maryanne@nisqually-nsn.gov

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Attorneys for the Squaxin Island Tribe

s/ Sharon Haensly
Sharon Haensly, WSBA No.18158
David Babcock, WSBA No. 31737
3711 SE Old Olympic Hwy.
Shelton, WA 98584
Phone: 360.432.1771
Fax: 360.432.3699
Email: shaensly@squaxin.us
dbabcock@squaxin.us

ORDER

IT IS SO ORDERED. Claim II, as set forth in paragraphs 7.1 to 7.13, inclusive, of Nisqually’s Request for Determination, is hereby dismissed with prejudice, and the Clerk shall enter final judgment with respect to the Court’s Order on Claim I (Dkt.#50).

DATED this 10th of March 2017.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT
JUDGE