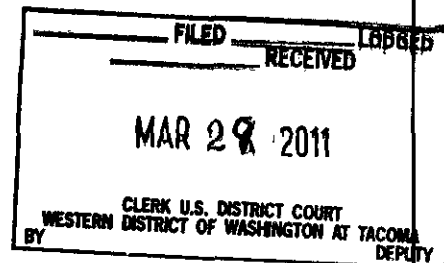


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The Honorable Ronald B. Leighton



10-CV-05863-ORD



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

GERALD G. RICHERT, on behalf of
SKOKOMISH FARMS, INC., a Washington
Corporation, et al.,

Plaintiffs,

vs.

TACOMA POWER UTILITY, a Washington
Utility; and THE CITY OF TACOMA, a
Washington municipality,

Defendants.

No. 3:10-CV-05863-RBL

**ORDER GRANTING PLAINTIFFS'
MOTION FOR REMAND**

This matter comes before the Court on Plaintiffs' Motion for Remand and request for attorneys' fees and costs pursuant to 28 U.S.C. § 1447(c) resulting from Defendant's removal of the present case. The Court reviewed the Motion for Remand, Tacoma's Opposition to Plaintiffs' Motion for Remand, Plaintiffs' Reply in Support of Remand, all attached declarations and exhibits and heard oral argument on Monday, March 14, 2011. On March 18, 2011, the Court reviewed emails from the parties with attachments. As stated in the Court's Minute Order of March 18, 2011, the Court finds that if and to the extent the


[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR
REMAND - 1
CASE NO. 3:10-CV-05863-RBL

Law Offices of Karen A. Willie, PLLC
936 N. 34th Street, Suite 400
Seattle, WA 98103
PHONE: (206) 223-1060
FAX: (206) 350-3528

1 Plaintiffs' Complaint sought injunctive relief potentially impacting the operation of the
2 Cushman Dam, the FERC license would be implicated and the Defendants' Removal of the
3 case was proper. The Plaintiffs have maintained that they sought only damages in state court.
4 The Court has therefore instructed the Plaintiffs to strike the injunctive relief portions of the
5 Complaint to clarify that in lieu of an injunction they only seek damages under *Steele v.*
6 *Queen City Broadcasting, Co.*, 54 Wn.2d 402, 341 P.2d 499 (1959). The Plaintiffs have
7 accordingly filed and served their First Amended Complaint following the Court's directive
8 and have clarified that they seek only state law damages therefore the Court lacks jurisdiction
9 for this matter pursuant to 28 U.S.C. § 1447(c).

10 Accordingly, it is hereby ORDERED that this matter is hereby remanded to Mason
11 County Superior Court and Plaintiffs' Request for Attorneys' fees is DENIED.

12 Dated this 29 day of March, 2011.

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for THE HONORABLE RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

17 **Presented By:**

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Karen A. Willie, WSBA No. 15902
Email: kwillie@willielaw.com
936 N 34th St., Ste 400
Seattle, WA 98103
Telephone: (206) 816-6603
Facsimile: (206) 350-3528
Attorney for Plaintiffs

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR
REMAND - 2
CASE NO. 3:10-CV-05863-RBL

Law Offices of Karen A. Willie, PLLC
936 N. 34th Street, Suite 400
Seattle, WA 98103
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FAX: (206) 350-3528