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2 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**  
3 **IN AND FOR THE COUNTY OF WHATCOM**

4 JOHN WE DEN II; JOHN PFARR and )  
5 JAMIE PFARR, d/b/a ZZOOMERS )  
6 SCOOTERS and BIKES, d/b/a )  
7 ZZOOMERS II WAVE VENTURE )  
8 TOURS; SKAGITYAMKAW, INC., a )  
9 Washington corporation, d/b/a SKAGIT )  
10 VALLEY YAMAHA/KAWASAKI; )  
11 WILLIAM CAMERON; TIMOTHY )  
12 FISCHER; BRIAN MARBLE; RYAN )  
13 HARRIS; LEONARD MOEN and )  
14 LILLIAN SIGLE MOEN, D.V.M.; )  
15 NATIONAL MARINE )  
16 MANUFACTURERS ASSOCIATION )  
17 on behalf of the PERSONAL )  
18 WATERCRAFT INDUSTRY )  
19 ASSOCIATION; and THE PORT OF )  
20 LOPEZ, )

21 **Petitioners,** )

22 **v.** )

23 SAN JUAN COUNTY acting through its )  
24 BOARD OF COMMISSIONERS, its )  
25 COUNTY PARKS AND RECREATION )  
26 BOARD, and its SUPERINTENDENT )  
27 OF PARKS AND RECREATION, )

28 **Respondent.** )

NO. 96-2-00376-6

DECLARATION OF  
Dr. JULIA PARRISH

I, Dr. Julia Parrish, make the following declaration under penalty of perjury under the laws of the State of Washington. I am over the age of 18, competent to testify about the matters stated below, and make this declaration based on my personal knowledge.

1           1.     I am a Professor of Zoology at the University of Washington and I  
2 hold a Doctorate in Zoology from Duke University. I have taught courses at the  
3 University for 3 years.

4           2.     My research has concentrated on Common Murres which may  
5 spend several winter months in Puget Sound and the waters surrounding the  
6 San Juan Islands. I have examined the effects of disturbance on predator/prey  
7 relationships, and in particular, which types of disturbance impact reproductive  
8 success and, ultimately, population size. I have conducted pilot research on the  
9 use of sound to deter seabirds from gillnets. My work also includes analyzing  
10 the effects of oil spills on seabird colonies and aiding the restoration of damaged  
11 colonies.

12           3.     San Juan County has good reason to be concerned over the effect  
13 of Jetskis on the Islands' bird colonies. The waters surrounding the San Juan  
14 Islands are a haven for birds year round and an important wintering refuge for  
15 many species. This area is critical to the health and reproduction of various  
16 seabird populations, including Marbled Murrelets, Common Murres, Rhinoceros  
17 Auklets, and several species of Cormorants and Sea Ducks.

18           4.     Introducing Jetskis to the San Juans creates a potential, serious  
19 threat to the bird populations using the marine habitats of the Islands. The  
20 maneuverability and shallow draft of jetskis allow them access to a wider range  
21 of habitat than other motorized boats. This poses a substantial threat to nesting  
22 colonies on the shorelines as well as birds on or near the water.



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NO. 96-2-00376-6

DECLARATION OF  
DR. ROGER GENTRY

I, Dr. Roger Gentry, make the following declaration under penalty of perjury under the laws of the State of Washington. I am over the age of 18, competent to testify about the matters stated below, and make this declaration based on my personal knowledge.

1           1.     I am a Research Wildlife Biologist with the National Oceanic and  
2 Atmospheric Administration (NOAA), National Marine Fisheries Service, at the  
3 National Marine Mammal Laboratory in Seattle, Washington. I have a Doctorate  
4 in Biology/Animal Behavior, and I have worked at the Marine Mammal Lab for 22  
5 years.  
6

7           2.     My primary area of research is in animal behavior with a secondary  
8 concentration on acoustics, the effect of sounds on animals. I have primarily  
9 studied seals, but have also researched Whales and Penguins. In the course of  
10 my research, I regularly consult with biologists and other scientists who do  
11 considerable work in the San Juan Islands.  
12

13           3.     Loudness and pitch alone are not accurate measures of whether a  
14 sound is annoying. A sound becomes annoying to humans and marine  
15 mammals when it is unpredictable and out of the control of the listener. For this  
16 reason, Jetskis have a high potential for creating sounds aversive to both  
17 humans and marine mammals. Jetskis are designed to be highly maneuverable  
18 and to accelerate quickly, which leads them to be operated with frequent course  
19 and speed changes. The unpredictability of these sounds is probably more  
20 aversive than any single physical feature of the sound, such as its frequency or  
21 absolute level. Unpredictability affects the listener through deviation from the  
22 listener's expectation (namely silence), and lack of control over the sound being  
23 produced.  
24  
25  
26  
27

1           4.     It is my opinion that Jetskis pose a substantial risk of noise and  
2 visual disturbance to the marine mammals which reside in San Juan County.

3           5.     Harbor seal. Jetskis would likely increase the disturbance of harbor  
4 seal colonies in Washington Sound. Harbor seals are primarily disturbed by  
5 aerial signals and secondarily by underwater sound. At molting and resting  
6 areas, jetskis could shift the activity pattern from day to night, and possibly cause  
7 abandonment of important sites. Disturbances at nursery areas from late June  
8 through August could break the mother-young bond and cause death of pups.  
9 Nursing areas could be abandoned if disturbance is sustained. Numbers in the  
10 most frequently used areas would decrease first.

11           6.     Harbor porpoise. Harbor porpoise would probably very quickly  
12 abandon any area used even moderately by jetskis. Harbor porpoise are  
13 primarily disturbed by underwater sound, and abandon areas where it occurs.  
14 Furthermore, the behavior of jetskis (sudden changes in course and speed) is  
15 the type of vessel movement that is most aversive to them. They can be  
16 expected to shift to quiet water areas.

17           7.     Killer whale. Because of their social structure, killer whales may be  
18 more resilient to disturbance by jetskis than either harbor seal or harbor  
19 porpoise. Nevertheless, at some level of disturbance, killer whales could begin  
20 to avoid areas where noise and fast movement occur. As with harbor seals, they  
21 would be expected to avoid areas of heaviest use first.

