

1  EXPEDITE

2  No Hearing Set

3  Hearing is Set

4 Date: August 14, 2020

5 Time: 9:00 a.m.

6 Judge: Erik D. Price

7 **STATE OF WASHINGTON**  
8 **THURSTON COUNTY SUPERIOR COURT**

9 ENERGY POLICYADVOCATES,  
10 a Washington nonprofit corporation

11 Plaintiff,

12 v.

13 ATTORNEY GENERAL'S OFFICE,  
14 an agency of Washington State,

15 Defendant.

NO. 20-2-00570-34

DECLARATION OF WILLIAM  
SHERMAN

16 I, WILLIAM SHERMAN, declare under penalty of perjury of the laws of the State of  
17 Washington that the following is true and correct:

18 1. I am, and at all times hereinafter mentioned have been, a citizen of the United States  
19 and over the age of 18 years.

20 2. I am the Chief of the Environmental Protection Division of the Washington Office  
21 of the Attorney General. In that role, I oversee affirmative environmental litigation that arises under  
22 the independent authority of the Attorney General.

23 3. I make this declaration based on personal knowledge, and based on records  
24 maintained in the regular course of business by the AGO, to which I have access.

25 4. Since at least [REDACTED], AGO attorneys have conducted legal research, written  
26 memoranda, held meetings, and briefed clients concerning potential litigation against [REDACTED]

1           5.       That work has included the evaluation of statutes; the monitoring of cases filed by  
2 individuals, municipalities, and other states against [REDACTED];  
3 creation of materials such as notes, emails, memoranda and drafts thereof, in which I and other  
4 attorneys in the Attorney General's Office express our analyses of the strengths and weaknesses of  
5 various legal claims.

6           6.       [REDACTED]  
7 [REDACTED].

8           7.       [REDACTED]  
9 [REDACTED]  
10 [REDACTED]

11           8.       I and other attorneys in the Attorney General's Office have briefed other  
12 Washington state officials on our analyses, including the Attorney General and the Governor.

13           9.       The AGO continues to contemplate litigation in this matter.

14           10.      Other states have filed or may be considering litigation against [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED].

19           11.      I have telephone calls scheduled with attorneys from [REDACTED]  
20 [REDACTED]  
21 [REDACTED].

22           12.      Other government entities have also filed similar lawsuits, including [REDACTED]  
23 [REDACTED]  
24 [REDACTED].

25           13.      The AGO actively monitors these other lawsuits as we continue to weigh our  
26 options and contemplate potential litigation.

1           14.     The litigation memos that are relevant to this Public Records Act litigation  
2 discuss and analyze potential or anticipated litigation under consideration prior to the filing of a  
3 lawsuit. Requiring the AGO to reveal such information would hinder future open discussion and  
4 analysis regarding potential or anticipated litigation as well as be harmful to potential targets if  
5 the AGO decides against pursuing such litigation.

6           15.     I always understood that these memos were confidential, and their substance, and  
7 even the subject, was not to be disclosed outside the AGO.

8           16.     The AGO continues to have discussions regarding potential legal theories,  
9 litigation strategy, and regulatory and factual developments related to potential litigation.

10          I declare, under penalty of perjury under the laws of the State of Washington, that the  
11 foregoing is true and correct.

12          DATED this 7th day of July, 2020, at Seattle, Washington

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16 WILLIAM SHERMAN  
17 Assistant Attorney General  
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