

1 Hearing Date: September 6, 2024

2 Hearing Time: 9:00 a.m.

3 Judge/Calendar: Hon. Anne Egeler
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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON

9 SAVE THE DAVIS-MEEKER GARRY
10 OAK,

11 Plaintiff,

12 v.

13 DEBBIE SULLIVAN, in her capacity of
14 Mayor of Tumwater

15 Defendant.
16

No. 24-2-01895-34

**SUPPLEMENTAL
DECLARATION OF BRYAN
TELEGIN IN SUPPORT OF
PLAINTIFF’S MOTION TO SET
AMOUNT OF SUPERSEDEAS
BOND**

17 I, BRYAN TELEGIN, declare as follows:

18 1. I am one of the attorneys for Plaintiff Save the Davis-Meeker Garry Oak herein. I am
19 over the age of 18 and make this declaration based upon my own personal knowledge. I make this
20 declaration in support of Plaintiff’s pending Motion to Set Amount of Supersedeas Bond (Aug. 14,
21 2024).

22 2. Attached hereto as **Exhibit F** is a true and correct copy of a letter dated June 4, 2024
23 from the Washington Department of Archeology and Historic Preservation (“DAHP”) to the City of
24 Tumwater and its mayor, Debbie Sullivan. Plaintiff obtained a copy of this letter through a public
25 records request to the City of Tumwater. The stated purpose of the letter is to notify the City of
26

1 Tumwater that it may not harm or destroy the Davis-Meeker Garry Oak without first obtaining a
2 permit from DAHP pursuant to Chapter 27.53 RCW.

3 3. Attached as **Exhibit G** hereto is a true and correct copy of a letter dated July 11, 2024
4 from Assistant Attorney General Christopher P. Wright to Jeffrey Myers, counsel for Debbie Sullivan,
5 Mayor of the City of Tumwater. In this letter, Mr. Write explains in great detail why the Davis-Meeker
6 Garry Oak is protected as an archeological resource under Chapter 27.53 RCW and why the City must
7 obtain a permit from the DAHP before taking any action that may harm or destroy the tree. Plaintiff
8 obtained a copy of this letter through a public records request to the City of Tumwater.
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10 I declare under penalty of perjury under the laws of the State of Washington that the foregoing
11 is true and cored.

12 Dated this 14th day of August, 2024, at Bremerton, Washington.

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16 Bryan Telegin

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Exhibit F



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

June 4, 2024

RE: Davis-Meeker Oak: Archaeological Permit Requirements under Chapter 27.53 RCW

Honorable Debbie Sullivan
Mayor, City of Tumwater
555 Israel Road SW
Tumwater, WA 98501

City Attorney's Office
555 Israel Road SW
Tumwater, WA 98501

Mayor Sullivan and City Attorney's Office,

Chapter 27.53 RCW and Chapter 25-48 WAC require a permit, administered by the Department of Archaeology and Historic Preservation (DAHP), for the excavation, alteration, or removal of archaeological resources on public and private lands. This is a requirement for all pre-contact archaeological sites and any post-contact historic property that is eligible for the National Register of Historic Places.

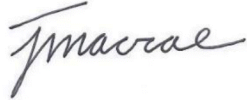
DAHP understands that the City of Tumwater intends to remove a tree known as the Davies-Meeker Garry Oak Tree (the Tree). Based on the information DAHP currently has about the Tree and its historic and tribal association, the Tree is an archaeological site or object and therefore protected under state law. The Tree is a registered historic property on the City of Tumwater Historical Register that, based on published accounts, is an historic feature associated with the precontact Cowlitz Trail and historic Oregon Trail. The Tree is also likely eligible for inclusion on the National Register of Historic Places. Consequently, the City of Tumwater must obtain a Washington State Archaeological Excavation and Removal Permit issued by DAHP before the removal or alteration of the Tree. Failure of the City of Tumwater to obtain a permit prior to removal of the Tree is a violation of state law.

Under RCW 27.53.060, the Tree cannot be knowingly removed, altered, dug into, excavated, damaged, defaced, or destroyed without the City of Tumwater first obtaining a permit from DAHP to do so. Failure to obtain a permit from DAHP prior to removing, altering, digging into, excavating, damaging, defacing, or destroying the Tree will result in penalties from DAHP pursuant to RCW 27.53.095. Such penalties may include, but are not limited to, reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation, reasonable site restoration costs, and civil penalties in an amount of not more than five thousand dollars per violation. Each day of continued violation shall constitute a distinct violation for the purpose of calculating penalties. A violation of Chapter 27.53 RCW is a misdemeanor.



Specific information about Archaeological Excavation and Removal Permits can be found in RCW 27.53 and WAC 25-48. Do not hesitate to contact me further if you have any questions or concerns, or wish to discuss the process of obtaining a permit from DAHP.

With respect,



James Macrae
Assistant State Archaeologist
1110 S. Capitol Way, Suite 30, Olympia WA, 98501
James.macrae@dahp.wa.gov



Exhibit G