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SUPERIOR COURT OF WASHINGTON FOR SAN JUAN COUNTY

FARM TO MARKET, LLC,  
Plaintiff,

vs.

EASTSOUND WATER USERS  
ASSOCIATION, a Washington  
non-profit corporation,  
Defendant.

NO. 23-2-05153-28

PLAINTIFF'S FIRST  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION  
PROPOUNDED TO DEFENDANT

TO: EASTSOUND WATER USERS ASSOCIATION, Defendant above-named.

COMES NOW the undersigned, and in accordance with the Washington Civil Rules for Superior Court, requests that the following interrogatories be answered separately and fully, under oath, within thirty (30) days after service upon you. These interrogatories are to be treated as a continuing period of information. If the answers are not available within the time limits of the Civil Rules, they are to be furnished when they become available. If supplementary information is made known between the time of making these answers and the time of trial, these interrogatories are directed to that information. If such information is not furnished, the undersigned will move at the time of trial to exclude from evidence any information requested and not furnished, or for a continuance of the trial in order to properly investigate such matter.

This is also a Request for Production pursuant to Civil Rule 34. Documents requested herein should be produced for inspection and copying during normal business hours at the offices of the undersigned attorney, at the address below-stated, within thirty (30) days of the service of this request. This request may be satisfied by providing copies of the documents to the undersigned prior to that date.

A. PROCEDURES & DEFINITIONS

1. Procedures for Interrogatories: Pursuant to Superior Court Civil Rule 33, you are requested to answer each of the following interrogatories, separately and fully, in writing, under

1  
2 oath. The answers are to be signed by the party to whom they are addressed and must be served  
3 on the undersigned attorney within thirty (30) days of receipt thereof. If you object to an  
4 interrogatory, state the objection and the basis for the objection and answer the interrogatory to  
5 the extent you have no objection.

6 If you cannot answer an interrogatory fully and completely after exercising due  
7 diligence to secure the information, answer each interrogatory to the extent possible. Specify that  
8 portion of the interrogatory you claim you are unable to answer and the facts supporting your  
9 inability to answer. State to the best of your knowledge any information or belief you have  
10 concerning the topic of the unanswered portion of the interrogatory.

11 These interrogatories call for all information (including information contained in  
12 or on writings, computer files, recordings, photographs or any other tangible thing or material)  
13 that is known or available to you, including all information in the possession of your officers,  
14 employees, agents, attorneys, accountants, auditors or other professional persons or experts and  
15 any investigators or any person acting in your behalf or under your or your attorney's  
16 employment, direction and/or control.

17 These interrogatories are continuing in nature and in the event you discover  
18 further information that is responsive to the interrogatories, you are to supplement the answers  
19 within a reasonable time after you discover the information.

20 2. Procedure for Requests for Production: Pursuant to Superior Court Civil Rule 33, you  
21 are requested to produce any and all documents requested herein, and those documents referred  
22 to in your answers to interrogatories, within thirty (30) days in the law offices of HIGGINSON  
23 BEYER, P.S., Attorney for Plaintiff for purposes of inspection and copying, or in lieu thereof, to  
produce all requested documents referred to in your answers to interrogatories by means of  
mailing or delivering true and correct copies of such documents, within thirty (30) days  
following the date of service of this request.

If you object to a request for production, describe all such documents or items  
with sufficient particularity to allow future identification of each document or item and state the  
objection and the basis for the objection and respond to the request to the extent you have no  
objection. If objection is made to a part of an item or category, that particular part shall be  
specified in the objection.

If you cannot fully and completely respond to a request for production after  
exercising due diligence to secure the information, respond to the extent possible. Specify that  
portion of each request for production you claim you are unable to answer, and specify the facts  
supporting your inability to respond.

3. Scope of Answers: By the use of the pronoun "you", it is intended that the answers  
are to include all information known to you, your agents, employees and attorneys, and your  
attorney's agents and investigators, accountants, appraisers and employees.

4. Document: As used herein, the word "document" or "documentation" shall include,  
without limitation, originals and copies of any information contained in written form, electronic  
form (such as computer, digital camera or digital recorder files), recordings, images (such as  
photographs, maps, drawings, charts or graphs) or any other form or media, regardless of origin  
or location, however produced or reproduced, to which you have or have had access. The

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2 document or documentation shall be produced intact in its original media; for example, a request  
3 for email shall produce a complete electronic copy including all the original metadata; a request  
4 for a Quicken or QuickBooks file shall produce an electronic copy of the complete original file,  
including password, if necessary; a request for a digital photograph shall produce a copy of the  
original computer file; etc.

5 5. Identify or Identity:

6 a. Person: As used herein, "identify" or "identity" used in reference to an  
7 individual person means to state his/her full name and his/her present address, his/her present or  
last-known position or business affiliation, and his/her position and business affiliation at the  
time in question and his/her present or last-known telephone number and email address.

8 b. Document: "Identify" or "identity" when applied to documents, shall mean to  
9 state a brief description of the contents of the document, the authors and addresses, and the date  
and present location of the document. If any such document was, but is no longer in your  
possession or subject to your control, state what disposition was made of it.

10 c. Meeting or Conversation: "Identify," when used in reference to a meeting or  
11 conversation, means to state the identity of all of the persons who were present and/or  
12 participated in the meeting or conversation, the date on which the meeting or conversation  
occurred, the place at which the meeting or conversation occurred, and if any record,  
memorandum or other writing of the meeting or conversation was made, to identify said record,  
memorandum or other writing.

13 6. "Or": The term "or" is all-inclusive. By use of the term "or" it is intended that the  
answers are to include information about all of the objects joined by the term "or."

14 7. "Person": The term "person" is meant to include any individual, entity or  
15 organization.

16 8. "You" or "your": By use of the term "you" or "your" it is intended that the answers  
are to include all information that is known or available to you, whether in your possession or in  
the possession of officers, employees, agents, attorneys, accountants, auditors, professionals,  
17 investigators, entities or persons acting on your behalf or under you or your attorney's  
employment, direction, request or control.

18 9. "Member" means a member of Eastsound Water Users Association.

19 10. "Board" means the Board of Directors of Eastsound Water Users Association.  
"Director" means a member of the Board of Directors.

20 11. "Association" means Eastsound Water Users Association, the defendant herein.


21 12. "General Manager" means Dan Burke. "Staff" means employees of Eastsound  
Water Users Association.

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23 13. For all requests, produce a legible and complete copy in at least 10 point type or  
produce the information in an excel file.

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2 14. If additional space is needed for an answer, you may attach additional pages.  
3 You may also request that these interrogatories and requests for production be provided to  
4 you in Word format for ease of answering.

5 DATED THIS 21<sup>st</sup> day of March, 2024.

6 HIGGINSON BEYER

7   
8 Carla J. Higginson  
9 WSBA #10653  
10 Attorney for Plaintiff

11 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

12 1. Produce a complete copy of the list of members of the Association to whom a ballot was  
13 sent for the election of directors held in November 2023. Include the name of the member,  
14 mailing address, number of votes the member is entitled to cast, the account number, and the  
15 name of the agent representing any member entity.

16 RESPONSE:  attached  not attached

17 If not attached, state reason:

18 2. Produce a complete copy of the list of members who submitted a ballot for the 2023 election.

19 RESPONSE:  attached  not attached

20 If not attached, state reason:

21 3. Produce a list of the number of votes that each member cast in the 2023 election.

22 RESPONSE:  attached  not attached

23 If not attached, state reason:

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4. Produce a legible and full-size copy of each and every proxy that the Association received after September 1, 2023.

RESPONSE:  attached  not attached

If not attached, state reason:

5. Produce the complete set of minutes or session notes taken by any Board member or member of the staff where the Board or subset of the Board discussed the 2023 election.

RESPONSE:  attached  not attached

If not attached, state reason:

6. Produce a copy of any recording made by the Board or staff of any meeting between August 1, 2023 and the date of the response to this demand that involved the Board or a subset of the Board. If you claim that any such recordings contain privileged communication with the Association attorney, produce a privilege log.

RESPONSE:  attached  not attached

If not attached, state reason:

7. Produce a complete copy of the recordings made of the election counting process. This includes any recordings made by Sam Gailey, or Ayn Gailey, or any other person.

RESPONSE:  attached  not attached

If not attached, state reason:

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8. Produce any and all logs and notes created by the election inspector of the 2023 election.

RESPONSE:  attached  not attached

If not attached, state reason:

9. Produce a record of any payments you made to Tom Eversole, Sam Gailey, Ayn Gailey, or any other individual for any services related to the 2023 election provided to EWUA.

RESPONSE:  attached  not attached

If not attached, state reason:

10. Produce a copy of all records that you provided to the election inspector who conducted the election count and staff who assisted the inspector. This includes the list of Members, the contact information of Members that was used by the inspector of staff, the number of votes each Member was entitled to, the authorized agent for each Member entity, any instructions, and any other information provided to the inspector by EWUA.

RESPONSE:  attached  not attached

If not attached, state reason:

11. Produce a copy of all meeting minutes, video and audio recordings made by any director, the General Manager, and any staff, and notes taken by each Board director, the General Manager, and any staff, of each closed session held by the Board from August 1, 2023 to the date of the response to this demand. This includes but is not limited to the closed sessions held on:

- December 5, 2023
- January 9, 2024
- January 16, 2024
- February 13, 2024

RESPONSE:  attached  not attached

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If not attached, state reason:

12. Produce the agenda for the November 2023 annual meeting of the members of the Association.

RESPONSE: \_\_\_\_\_ attached \_\_\_\_\_ not attached

If not attached, state reason:

**INTERROGATORIES**

1. For all meetings held between November 16, 2023 and the present, state the date of the meeting, the location of the meeting, who was in attendance, and any action that was taken at the meeting.

ANSWER:

2. Explain why a paper ballot was used for the November 2023 election rather than a vote-by-email election as in previous years, and state whose decision it was to use a paper ballot process.

ANSWER:

3. Provide the names of the people who created the final form of the election announcement, instructions, and ballot.

ANSWER:

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4. State all procedural errors that the Board acknowledges were committed in regard to the:

- (a) Announcement of the annual meeting
- (b) Election instructions
- (c) Ballot

(d) If no errors are acknowledged, state the specific law or bylaw provision that was followed in how the annual meeting was announced to the members, the content of the election instructions, and the ballot.

ANSWER:

5. The Association bylaws require that a proxy form be sent to the Members along with the notice of the annual meeting. Do you agree that this did not occur?

ANSWER: \_\_\_\_ Yes \_\_\_\_ No

If your answer is Yes, state why it did not happen.

ANSWER:

6. State how many proxies were received in connection with the November 2023 election.

ANSWER:

7. State why proxies were solicited stating that the proxies were needed for a quorum for an annual meeting where no business was scheduled to be conducted.

ANSWER:



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8. State why Members were asked to return a completed proxy form along with the completed ballot.

ANSWER:

9. State the names of the Members whose votes were not accepted in the November 2023 election and the reason each was not accepted.

ANSWER:

10. State when each of the General Manager, the officers and directors become aware of:
- (a) The inaccurate election announcement regarding the seats that were up for election;
  - (b) The inaccurate election announcement that the President of EWUA was not up for election;
  - (c) The inaccurate election instructions to the Members of the number of seats up for election;
  - (d) The inaccurate ballot instructions to the Members on the number of votes that the Member was allowed to cast;
  - (e) The lack of identifying information on the ballot.

ANSWER

11. State why the vote counting process for the November 2023 election was video and audio recorded, and whose decision it was to do so.

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12. State the names of all members who were contacted by the election inspector or Association employees or others acting on behalf of the inspector regarding the Member's ballot.

ANSWER:

13. Provide the contact information, including name, mailing address, physical address, phone number, and email for each person involved in the election counting process for the 2023 election.

ANSWER:

14. Provide the contact information, including name, mailing address, physical address, phone, and email for each director who has served on the Board from August 2023 to the date of the response to this interrogatory.

ANSWER:

15. State who directs the Association's attorney(s) with regard to litigation matters, and who speaks on behalf of the Board when communicating with the Association's attorney(s).

ANSWER:

16. State whether the General Manager has provided direction to the Association's attorneys on any matters from January 1, 2023 to the date of the response to this interrogatory.

ANSWER: \_\_\_\_\_ Yes \_\_\_\_\_ No

If the answer is Yes, state on whose authority said direction is/was provided, and state the specific matter(s) on which each direction is/was provided.

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ANSWER:

17. Was there any business scheduled for the November 2023 annual meeting that would require a quorum of the membership? \_\_\_\_ Yes \_\_\_\_ No. If yes, what was it?

ANSWER:

18. Why was Jim Cook prevented from voting during the January 9, 2024 board meeting?

ANSWER:

19. Were the numerous inaccuracies regarding the 2023 election a part of the annual performance review of the General Manager?

ANSWER: \_\_\_\_ Yes \_\_\_\_ No

20. On what date was the General Manager's 2024 compensation package approved by the Board?

ANSWER:

21. Was the compensation package approved in regular session or in executive session?

ANSWER:

If you claim that the package was approved in executive session, state the basis for your belief that it was an executive session.

ANSWER:

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23. State, for each individual or firm, the compensation paid from January 1, 2023 to the date of response to this interrogatory for each and every attorney and certified public accountant paid by the Association.

ANSWER:

24. For each of the following Board members, answer the following questions:

(a) Has this director ever served on a board before they took a position on the Association Board?

(b) Has this director ever taken a board training class and if so, when and who provided the training?

ANSWER AS TO Teri Nigretto:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

ANSWER AS TO Jim Nelson:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

ANSWER AS TO Carol Anderson:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

ANSWER AS TO Ron Claus:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

ANSWER AS TO Mike Cleveland:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

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ANSWER AS TO Jim Cook:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

ANSWER AS TO Leith Templin:

(a) \_\_\_\_\_ Yes \_\_\_\_\_ No

(b) \_\_\_\_\_ Yes \_\_\_\_\_ No

**CERTIFICATION OF COMPLIANCE AND FORWARDING**

As attorney for Defendant, I hereby certify that I have read the foregoing Answers to Interrogatories and Responses to Request for Production, that they are in compliance with CR 26(g)(1), (2) & (3) and that the original of the Answers to Interrogatories and Responses to Request for Production have been forwarded by mail or messenger on the date stated below to Carla J. Higginson, attorney for Plaintiff

STATE NAME: \_\_\_\_\_  
WSBA # \_\_\_\_\_  
Attorney for Defendant

**VERIFICATION**

I declare under penalty of perjury of the laws of the State of Washington that 1) I am an officer or authorized agent of the association to whom these interrogatories and requests for production are addressed, 2) I have read the foregoing answers to the interrogatories and

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responses to requests for production of documents and know the contents thereof and 3) the foregoing answers to the interrogatories and responses to requests for production of documents are true, correct and complete.

\_\_\_\_\_  
(signature)  
Print name & title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Place of signing: \_\_\_\_\_

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