

SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2019 JUN 21 PM 2:42

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

STATE OF WASHINGTON,

Plaintiff,

v.

HAZEN GRAHAM SHOPBELL,

Defendant.

Co-Defendant:

ANTHONY PAUL, 18-1-00622-29

NO. 18-1-00621-29

MOTION TO DISMISS AMENDED
INFORMATION PURSUANT TO CrR
8.3(b)

Defendant Hazen Shopbell moves to dismiss the Amended Information dated June 18, 2019, pursuant to CrR 8.3(b).

During the June 18, 2019, hearing, this Court rightly stated that the Washington State Department of Fish and Wildlife's ("WDFW") "shopping" of the five criminal counts at bar is "troublesome." Since at least early 2017, WDFW shopped this case to prosecutors in King, Pierce, and Snohomish Counties, while its Assistant Attorney General ("AAG") rebuffed repeated suggestion that he or his office bring these charges—before getting Skagit County to take the bait. Subjoined Declaration of Gabriel S. Galanda ("Galanda Decl."), Exs. A-G.

In February 2017, WDFW initiated discussions with prosecutors for King, Pierce, and Snohomish Counties, which culminated in a joint meeting of WDFW, AGO, and King and

1 Pierce Counties. *Id.*, Exs. A, B. Since Pierce County indicated that it did not “currently have
2 anybody specifically working on economic or financial crimes,” it was suggested that an AAG
3 who “works economic crimes . . . would be the proper AG contact for this case.” *Id.* WDFW’s
4 AAG Bill Sherman, however, rebuffed the idea that his colleague, AAG Scott Marlow, would
5 prosecute the case: “[I]t’s not at all clear that he’d have the time to work on this type of case,
6 especially now that he’ll have all or other environmental crimes on his plate. We’d be happy to
7 join the overall Pierce/King/Snoho Cty meeting, though.” *Id.*

8 Pierce County ultimately declined to bring charges for WDFW or AGO against
9 Defendants, according to a telephone conversation between Deputy Prosecuting Attorney April
10 McComb and WDFW Detective Wendy Willette.¹ *Id.*, Ex. E, at 285-286. Snohomish County
11 likewise advised Det. Willette “that their agency would not be getting involved,” explaining:

12 They will not review the affidavit, they will not participate in any meetings, they
13 will not provide any legal counsel moving forward. She will provide me with an
14 email stating their reasons for declining to handle any portion of the case and I’ll
send that along, should anyone like to see it, once it arrives. Mainly, their elected
feels this case is best-served at the Attorney General’s office . . .

15 *Id.*, Ex. C (emphasis added). In response to Snohomish County’s declination, AAG Sherman
16 advised WDFW: “Because you indicated that Snohomish County believed the case is best-served
17

18 ¹ In another proceeding filed by Pierce County against Tulalip fisherman at WDFW’s request, the Pierce County
19 Prosecutor summarily dismissed the charges when it realized, in part, that WDFW had not “previously disclosed” to
Pierce County that the case had been previously been shopped to Snohomish and King County:

20 At the same time, we had another meeting with Fish and Wildlife and their representative from
21 the AG’s office. At this time, they confirmed the Hatch defendants had been prosecuted by the Tulalip
Tribe. They also informed us that this case had been presented to the Snohomish County Prosecutors
22 Office and King County Prosecutors Office. None of that information was previously disclosed to us.
During that meeting, the AAG was presented with the option of being designated a special deputy
23 prosecutor on the case since they claimed it was important. The AAG declined that option first saying
he would have to check with the elected AG. He then said that he did not think his unit had time to do it
because they only had 8 attorneys and were a small unit. It was pointed out that my unit had fewer
24 attorneys.

25 *Id.*, Ex. D, at 1.

1 by the AG's office, I wanted to emphasize that our office remains very unlikely to take this case.
2 Any expectation Snohomish County might have that this case will be prosecuted by AGO is
3 mistaken." *Id.*

4 King County also told WDFW and AGO it was unlikely it also would decline to bring
5 charges against Defendants:

6 Having said that, my understanding is that [WDFW Lt.] Paul [Golden] and/or
7 Wendy will be reaching out to you again in the near future to try to figure out who
8 from the AGO would take on a case like this one if no country prosecutor did or if
9 the involved counties jointly agreed to relinquish jurisdiction. This is based on my
10 very strong encouragement that they needed to set up a meeting with someone
11 from Pierce Co, Sno Co, the AGO, and me to present and discuss the case. I'm
12 still concerned that the nexus to King County is so limited that KCPAO won't
13 take it.

14 *Id.*, Ex. F. As Det. Willette testified:

15 Q. So if you're communicating about that investigation with Mr. Hinds, how did it
16 ultimately get referred to Mr. Johnson in Skagit County?

17 A. Well, originally, because I work kind of in this area, I work with Patrick a lot,
18 he is the economic and environmental crime specialist, so he has a lot of specific
19 knowledge to what we do, and he said that he received permission from his
20 supervisor to advise me on preparation of the Search Warrant but that their office
21 was reserving the right to decline to file, I think, something to that effect, if they
22 couldn't find a venue. And so the issue was that the crime hadn't occurred in King
23 County.

24 **Q. And which crime do you refer?**

25 **A. Specifically crimes that were forwarded to Skagit County Prosecuting
Attorney's Office, the unlawful possession of bivalve shellfish.**

**Q. So is it safe to say the King County Prosecutor's Office declined to
prosecute the charge that was referred to Skagit County?**

**A. Not officially, because it wasn't submitted to King County, so it wasn't a
formal decline.**

Id., Ex. E, at 46-47 (emphasis added).

By February 2018, Det. Willette referred her case report to former Skagit County Deputy
Prosecuting Attorney Sloan Johnson, including only information pertaining to the "illegal

1 clams”—with no apparent disclosure that WDFW had unsuccessfully shopped criminal charges
2 against Defendants to King, Pierce, and Snohomish Counties. *Id.*, Ex. F; *see also id.*, Ex D, at 1.

3 This Court should not countenance WDFW’s misconduct. CrR 8.3(b) authorizes this
4 Court to dismiss any criminal prosecution “in the furtherance of justice . . . due to arbitrary
5 action or governmental misconduct.” *See also* RCW 9.94A.411 (“A prosecuting attorney may
6 decline to prosecute . . . in situations where prosecution would . . . result in decreased respect for
7 the law.”); *id.* (“(g) Improper Motives of Complainant – It may be proper to decline charges
8 because the motives of the complainant are improper . . .”).

9 Dismissal of the five “shopped” counts against Defendant Shopbell in the Amended
10 Information is warranted.²

11 DATED this 20th day of June 2019.

12 GALANDA BROADMAN, PLLC

13 

14 _____
15 Gabriel S. Galanda, WSBA# 30331
16 8606 35th Ave. NE, Suite L1
17 PO Box 15146, Seattle, WA 98115
18 (206) 557-7509 Fax: (206) 299-7690
19 Email: gabe@galandabroadman.com
20 Attorneys for Defendant Hazen Shopbell

21
22
23 ² The State has yet to respond to the Point Elliott Treaty fishing rights arguments advanced by Defendant Shopbell
24 on April 26, 2019 and again on June 11, 2019. As such, the Court should alternatively dismiss the Amended
25 Information under federal Indian Treaty law. Article V. 12 Stat. 927 (Jan. 22, 1855); *United States v. State of Wash.*,
384 F. Supp. 312, 333 (W.D. Wash. 1974), *aff’d and remanded*, 520 F.2d 676 (9th Cir. 1975).

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DECLARATION

I, Gabriel S. Galanda, declare as follows:

1. I am counsel for Defendant Hazen Shopbell. I am over the age of eighteen years, and make this Declaration upon personal knowledge.

2. The documents attached hereto as Exhibits A through F are true and correct.

The foregoing statement is made under penalty of perjury and under the laws of the State of Washington and is true and correct.

Signed at Seattle, Washington, this 20th day of June 2019.



Gabriel S. Galanda

1 **CERTIFICATE OF SERVICE**

2 I, Wendy Foster, declare as follows:

3 3. I am now and at all times herein mentioned a legal and permanent resident of the
4 United States and the State of Washington, over the age of eighteen years, not a party to the
5 above-entitled action, and competent to testify as a witness.

6 4. Today, I caused the above document to be filed in the above-captioned court via
7 U.S. Mail, and served via email and fax on the following:

8 Edwin N. Norton
9 Skagit County Prosecuting Attorney
10 605 S. Third Street
11 Courthouse Annex
12 Mount Vernon, WA 98273
13 Tel: (360) 416-1600
14 Fax: (360) 416-1648
15 EdWinn@co.skagit.wa.us
16 Attorneys for Plaintiff

17 David H. Smith
18 Garvey Schubert Barer
19 1191 Second Ave., Suite 1800 Seattle, WA 98101
20 Tel: (206) 464-3939
21 Fax: (206) 464-0125
22 dsmith@gsblaw.com
23 Attorneys for Defendant Anthony Paul

24 The foregoing statement is made under penalty of perjury and under the laws of the State
25 of Washington and is true and correct.

Signed at Seattle, Washington, this 20th day of June 2019.

26 
27 Wendy Foster

EXHIBIT A

From: Sherman, Bill (ATG)
To: Hinds, Patrick
Subject: FW: WDFW 15-007473 PSSD
Date: Wednesday, March 01, 2017 11:45:01 AM

This came in after I left my voicemail for you today. This is really good news.

From: Golden, Paul D (DFW)
Sent: Wednesday, March 01, 2017 11:10 AM
To: Sherman, Bill (ATG)
Subject: RE: WDFW 15-007473 PSSD

Thanks Bill,

Lisa Wagner and April McComb at Pierce county said they can meet with us. They asked for a Friday. We will set it up and make sure you and Scott are available.

From: Sherman, Bill
Sent: 2/27/17, 3:37 PM
To: Golden, Paul
Subject: RE: WDFW 15-007473 PSSD

Got your voicemail, Paul. I do think that it would make sense to have a meeting with prosecutors from Sno and Pierce.

The prosecutor at the AG's office who did financial crimes, Scott Marlow, has actually moved over to my unit. But it's not at all clear that he'd have the time to work on this type of case, especially now that he'll have all our other environmental crimes on his plate. We'd be happy to join the overall Pierce/King/Sno Cty meeting, though. I'd guess that, even if Pierce doesn't have someone dedicated to financial crimes, they have people sufficiently experienced to handle it.

Bill

From: Golden, Paul D (DFW)
Sent: Monday, February 27, 2017 1:45 PM
To: Sherman, Bill (ATG)
Subject: WDFW 15-007473 PSSD

Hi Bill, After our meeting on this case last Friday, Patrick Hinds recommended we reconvene with a Pierce County DPA and an AAG in the room. Depending on where we draw the circle around the case, violations will probably primarily be in Pierce County, but will include King and Snohomish as well at least. Detective Willette is contacting Pierce County. However, we have been told that Pierce County does not currently have anyone specifically working on economic or financial crimes. In an earlier meeting, you mentioned an AAG that works economic crimes that would be the proper AG contact for this case. I cannot find that name in my notes or emails. Have you already talked to anyone about this case, or can you recommend the right person for us to talk to?

Thank you,

Paul

Exhibit 27
Witness Willette
Date 9-28-18

EXHIBIT B

From: Golden, Paul D (DFW)
To: [Sherman, Bill \(ATG\)](#); [william omaits](#); [Willette, Wendy M \(DFW\)](#); [Lisa Wagner \(lwagner@co.pierce.wa.us\)](mailto:lwagner@co.pierce.wa.us); [Hinds, Patrick](#); [Marlow, Scott \(ATG\)](#)
Subject: RE: March Meeting
Date: Thursday, March 02, 2017 11:51:17 AM
Attachments: [image002.png](#)
[image003.png](#)

Good for me!

From: Sherman, Bill (ATG)
Sent: Thursday, March 02, 2017 9:29 AM
To: [william omaits](#); [Willette, Wendy M \(DFW\)](#); [Lisa Wagner \(lwagner@co.pierce.wa.us\)](mailto:lwagner@co.pierce.wa.us); patrick.hinds@kingcounty.gov; Golden, Paul D (DFW); [Marlow, Scott \(ATG\)](#)
Subject: RE: March Meeting

That's fine for me too.

From: [william omaits \[mailto:william.omaits@msn.com\]](mailto:william.omaits@msn.com)
Sent: Thursday, March 02, 2017 9:11 AM
To: [Willette, Wendy M \(DFW\)](#); [Lisa Wagner \(lwagner@co.pierce.wa.us\)](mailto:lwagner@co.pierce.wa.us); patrick.hinds@kingcounty.gov; Golden, Paul D (DFW); Sherman, Bill (ATG); [Marlow, Scott \(ATG\)](#)
Subject: RE: March Meeting

Wendy---11:00 am at Pierce County Prosecutor's on March 31st is good for me. Bill Omaits

From: [Willette, Wendy M \(DFW\) \[mailto:Wendy.Willette@dfw.wa.gov\]](mailto:Wendy.Willette@dfw.wa.gov)
Sent: Thursday, March 02, 2017 9:08 AM
To: [Lisa Wagner \(lwagner@co.pierce.wa.us\)](mailto:lwagner@co.pierce.wa.us) <lwagner@co.pierce.wa.us>; patrick.hinds@kingcounty.gov; Golden, Paul D (DFW) <Paul.Golden@dfw.wa.gov>; Sherman, Bill (ATG) <BillS5@ATG.WA.GOV>; WLOMAITS@MSN.COM; [Marlow, Scott \(ATG\)](#) <ScottM4@ATG.WA.GOV>
Subject: March Meeting

Hello,

March 31 seems to be the best day for everyone to meet. Do we have a venue for the meeting? Given that there are two Pierce County DPAs, I would ask if they have a space we can use. I've reached out to Michael Boska with the Snohomish County Prosecuting Attorney's Office but have not heard back yet.

Does 11AM work for everyone? I'm hopeful we can avoid the worst of traffic by having the meeting earlier in the day.

Thank you,

Detective Wendy Willette, W-53
Washington Department of Fish and Wildlife



Law Enforcement Program
16018 Mill Creek Boulevard
Mill Creek, WA 98012

 425-775-1311 / (Fax) 425-338-1066

 425-681-9428

 wendy.willette@dfw.wa.gov

 [WDFW Police on Facebook](#)

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EXHIBIT C

From: Golden, Paul D (DFW)
To: [Sherman, Bill \(ATG\)](#); [Willette, Wendy M \(DFW\)](#); [Hinds, Patrick Marlow, Scott \(ATG\)](#)
Subject: RE: WA-15-007473 Snohomish County Involvement
Date: Wednesday, March 15, 2017 6:31:34 PM
Attachments: [image002.png](#)
[image003.png](#)

Thank you Bill. Based on what other officers have indicated, I'm pretty sure that was just Sno County's way of saying whatever they felt would make us not bother them anymore. I don't have personal experience with them though. Regardless, you and I are clear on what your office's involvement is in this case. I appreciate the advice and assistance you are providing though.

Regards,
Paul

From: Sherman, Bill (ATG)
Sent: Wednesday, March 15, 2017 4:47 PM
To: Willette, Wendy M (DFW) <Wendy.Willette@dfw.wa.gov>; Golden, Paul D (DFW) <Paul.Golden@dfw.wa.gov>; patrick.hinds@kingcounty.gov
Cc: Marlow, Scott (ATG) <ScottM4@ATG.WA.GOV>
Subject: RE: WA-15-007473 Snohomish County Involvement

Wendy, thanks for this update. Because you indicated that Snohomish County believed that the case is best-served at the AG's office, I wanted to emphasize that our office remains very unlikely to take this case. Any expectation Snohomish County might have that this case will be prosecuted by AGO is mistaken.

Best,
Bill

From: Willette, Wendy M (DFW)
Sent: Wednesday, March 15, 2017 3:44 PM
To: Golden, Paul D (DFW); patrick.hinds@kingcounty.gov; Sherman, Bill (ATG)
Subject: WA-15-007473 Snohomish County Involvement

Hello,

I wanted to advise you all that I began reaching out to the Snohomish County Prosecutor's Office several weeks ago and received a response yesterday from their felony unit. I spoke with Lisa Paul (no relation) and advised her of the scenario. She was also provided with a draft of an affidavit for search warrant for Rushmore Tax. Lisa called today to advise that their agency would not be getting involved. They will not review the affidavit, they will not participate in any meetings, they will not provide any legal counsel moving forward. She will provide me with an email stating their reasons for declining to handle any portion of the case and I'll send that along, should anyone like to see it, once it arrives. Mainly, their elected feels this case is best-served at the Attorney General's office

and since they have not been involved up to this point, they don't feel it's appropriate for them to step in now. I think these are reasonable points.

In re: the seal renewal, I was successful today in having the existing non-expiring seal removed and a new 90-day expiring seal set in place, based on the counsel from AAG Shorin yesterday. All institutions queried in the search warrants have been notified via US Mail of the change in seal and non-disclosure status. The Honorable Judge Carey signed the new motion and order and advised that she is taking over Judge Gains' cases now that he's retired. She offered to review future affidavits and search warrants related to the case.

Patrick, I have two (maybe 3) of four affidavits for additional institutions that I'd like to have signed in King County if possible. The fourth affidavit is Pierce-County specific for a business located in Pierce and that draft has been sent to DPAs Wagner and McComb for review. The two affidavits I'd like to get signed in King County are for 1) three additional financial institutions, very similar to the most recent affidavit, and 2) the Snohomish County Rushmore Tax Warrant, since they have declined to weigh in on it. Also, in regard to the tax preparer's disclosure of the search warrant to the suspect, the Sno County DPAs felt that it was a violation of King County's order and therefore King County has jurisdiction to issue an arrest warrant for the tax preparer. I'm not sure how to proceed with that and welcome counsel. The third affidavit will be for Gmail accounts, held out of state. That one isn't written yet and not ready for review, but I wanted to mention it.

With that, would you be able to review the two new affidavits for the three financial institutions and for Rushmore Tax? They are not terribly long and follow the format of the most recent affidavit. Their wording is also very similar. Do you have any objection to me sticking with King County Superior Court in regard to these affidavits and presenting them to Judge Carey moving forward?


Thank you,



Detective Wendy Willette, W-53

Washington Department of Fish and Wildlife
Law Enforcement Program
16018 Mill Creek Boulevard
Mill Creek, WA 98012

 425-775-1311 / (Fax) 425-338-1066

 425-681-9428

 wendy.willette@dfw.wa.gov

 [WDFW Police on Facebook](#)

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EXHIBIT D

DISMISSAL MEMO

Anthony Paul 18-1-01376-5

Kirby Manzanares 18-1-01375-7

Joseph Hatch Sr 18-1-01377-3

Joseph Hatch Jr 18-1-01378-7

Originally a Sgt with Fish and Wildlife wanted to meet with Kate and I about a case in November of 2017. The meeting did not happen until sometime in January 2018. The file and information was not given to us to charge until late March/early April 2018. The event happened May 23, 2015 and were running up against statute of limitation (3 years). Fish and Wildlife originally presented this case to us, but did not include information about any other jurisdiction charging the case or considering charging the case. Based on the information we had, we charged all 4 with 1 count of trafficking shellfish based on an act which occurred in Pierce County on 5/23/15.

After charging the case, arraignment was set in late April 2018. The arraignment was continued on defense counsel's motion and they filed a bill of particulars. Around this same time, we were given notice by the Tulalip Tribe that both Hatch defendants were prosecuted by the Tribe for harvesting the crab surrounding our charges.

At the same time, we had another meeting with Fish and Wildlife and their representative from the AG's office. At this time, they confirmed the Hatch defendants had been prosecuted by the Tulalip Tribe. They also informed us that this case had been presented to the Snohomish County Prosecutors Office and King County Prosecutors Office. None of that information was previously disclosed to us. During that meeting, the AAG was presented with the option of being designated a special deputy prosecutor on the case since they claimed it was important. The AAG declined that option first saying he would have to check with the elected AG. He then said that he did not think his unit had time to do it because they only had 8 attorneys and were a small unit. It was pointed out that my unit had fewer attorneys.

The arraignment was set over a 2nd time by agreement of parties. Defense counsels on the case requested a meeting with us and Tulalip Tribe. A meeting was set up, the defense attorneys were present, 2 members on the Tulalip Tribal Prosecutor's Office, and the Pierce County Tribal Liaison. The Tulalip Tribal Counsel also submitted a letter for our consideration. At this meeting we learned additional information, that was not provided to us prior to considering this case. (1) That Fish and Wildlife had signed an MOU with the Tulalip Tribe. As part of the MOU, it says that Fish and Wildlife must bring cases that involve tribal members to the Tribe's Prosecutor first. If that office prosecutors, plea bargains or uses its discretion in filing or not filing charges, Fish and Wildlife is prohibited from taking the case to another prosecutor's office. Tulalip Tribal Prosecutor's office had been given all the information (including the trafficking) when they filed the case against the Hatches. The Hatches later pled as part of a plea bargain which resolved the case. The Tribal Prosecutor's Office and Tribal Counsel view Fish and Wildlife presenting the case to us as a violation of the MOU that was signed by those parties. The MOU had the parties signature and appears valid. It had the signature of the AAG that we

have previously meet with. The Tribal Liaison, who use to work in the Tulalip Tribal Prosecutor's Office, said their practice would be to review the entire case and determine everyone that should be charged and not charged and take action at that time.

(2) Defendant Manzanares is a member of the Puyallup Tribe. The action in Pierce County happened on Puyallup Tribal land and the case should have been presented to the Puyallup Tribe. As far as we know that was not done.

(3) In addition, we learned all defendants have a viable defense that we were not told about. The shellfish season was only 5/22/15. The Hatches had a boat issue on that day, which Fish and Wildlife confirms. The Hatches claim they had permission to harvest late from the Tribal Shellfish manager because of the boat issue. Paul and Manzanares also contacted the Tribal Shellfish manager to confirm that could purchase the crab in this case and were given authorization because of the boat issue. Defense presented a letter for the Shellfish manager saying the shellfish tickets were legal in this case. We are told the Shellfish manager does not specifically remember these conversations and the custom within the tribe is not to physically document. However, the Shellfish manager and others would say allowing this would not be unusually. This would be a complete defense in the case.

EXHIBIT E

IN THE TULALIP TRIBAL COURT
TULALIP INDIAN RESERVATION
TULALIP, WASHINGTON

HAZEN GRAHAM SHOPBELL, enrolled)
Tribal member, et ux.,)
Plaintiff,)
vs.) No. TUL-CV-GC-2016-0278
STATE OF WASHINGTON DEPARTMENT)
OF FISH AND WILDLIFE; et al.,)
Defendants.)

Deposition Upon Oral Examination of
WENDY WILLETTE

8:57 a.m.
Friday, September 28, 2018
800 Fifth Avenue, Suite 2000
Seattle, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 Q. And there's -- are you involved in any other
2 investigation involving Mr. Shopbell or Mr. Paul at this
3 moment?

4 A. No.

5 Q. Mr. Hinds, you indicated, was a prosecutor for
6 King County; correct?

7 A. Yes, that's correct.

8 Q. So if you're communicating about that
9 investigation with Mr. Hinds, how did it ultimately get
10 referred to Mr. Johnson in Skagit County?

11 A. Well, originally, because I work kind of in this
12 area, I work with Patrick a lot, he is the economic and
13 environmental crime specialist, so he has a lot of specific
14 knowledge to what we do, and he said that he received
15 permission from his supervisor to advise me on preparation
16 of the Search Warrant but that their office was reserving
17 the right to decline to file, I think, something to that
18 effect, if they couldn't find a venue. And so the issue
19 was that the crime hadn't occurred in King County.

20 Q. And which crime do you refer?

21 A. Specifically crimes that were forwarded to
22 Skagit County Prosecuting Attorney's Office, the unlawful
23 position of bivalve shellfish.

24 Q. So is it safe to say the King County
25 Prosecutor's Office declined to prosecute the charge that

1 was referred to Skagit County?

2 A. Not officially, because it wasn't submitted to
3 King County, so it wasn't a formal decline.

4 Q. Why couldn't you consult with the Skagit County
5 Prosecutors in the first place, meaning rather than Mr.
6 Hinds?

7 A. Because this case took a very long time, and the
8 information that we initially had didn't lead us to Skagit
9 County.

10 Q. Where did it lead you initially?

11 A. Well, kind of Pierce, King, and Snohomish.

12 Q. Did you communicate with the Pierce County
13 Prosecutors about your investigation into Mr. Shopbell and
14 Mr. Paul?

15 A. Yes.

16 Q. And who at Pierce County did you communicate
17 with?

18 A. What was her name? Lisa Wagner was one of them,
19 and then there was another woman, and I can't remember her
20 name.

21 Q. Did you refer the matter that is now pending in
22 Skagit County to the Pierce County Prosecutors?

23 A. No, but a narcotics possession for Anthony Paul
24 was referred to Pierce County.

25 Q. Was that ever charged or prosecuted?

1 Do you see that?

2 A. I do.

3 Q. And in the email above that there's a reference
4 by Mr. Sherman to Captain Golden, "We'd be happy to join
5 the overall Pierce/King/Snohomish County meeting."

6 A. Oh.

7 Q. Do you know if this meeting or set of meetings
8 ever happened?

9 A. I don't believe so. Although there was a
10 meeting that happened in Pierce County, and Patrick Hinds
11 from King County did come, but Snohomish County didn't.

12 Q. Okay.

13 A. And I think Scott Marlow was there.

14 Q. Was the idea that all those law enforcement
15 agencies would come, Pierce, King, Snohomish County, and
16 DFW?

17 A. We wanted to extend the invitation to Snohomish,
18 but they declined.

19 Q. On the top -- or second to the top email, "Lisa
20 Wagner and Aril McComb at Pierce County said they could
21 meet with us."

22 Was April McComb the other woman you spoke with?

23 A. Yes.

24 Q. Is that the woman you spoke with that Friday
25 when they declined to --

1 A. Yes.

2 Q. -- bring charges?

3 A. Yes.

4 Q. So did this meeting of all these law enforcement
5 agents ultimately happen?

6 A. Yes, except Snohomish didn't go.

7 Q. Okay, so it was between Pierce, King, and WDFW?

8 A. And the AG's office.

9 Q. And where did the meeting happen?

10 A. In Pierce County.

11 Q. And what was discussed at the meeting?

12 A. The case.

13 Q. What exactly was discussed about the case?

14 A. All of it up to that point.

15 Q. Did you deliver a briefing at that meeting?

16 A. Yes.

17 Q. How long was the meeting?

18 A. I don't know.

19 Q. Did you discuss the Joey Hatch 444 pounds
20 transaction?

21 A. Yes.

22 Q. Did you discuss alleged underpayments?

23 A. Yes.

24 Q. Did you discuss the bivalve shellfish situation?

25 A. Bivalve.

1

C-E-R-T-I-F-I-C-A-T-E

2

3 STATE OF WASHINGTON)

4) ss.

5 COUNTY OF THURSTON)

6

7 I, the undersigned Registered Professional
8 Reporter and Certified Court Reporter, hereby
9 certify that the foregoing deposition upon oral
10 examination was taken stenographically before me and
11 transcribed under my direction;

12 That the witness was duly sworn by me,
13 pursuant to RCW 5.28.010, to testify truthfully; that the
14 transcript of the deposition is a full, true, and correct
15 transcript to the best of my ability; that I am neither
16 attorney for, nor a relative or employee of, any of the
17 parties to the action or any attorney or counsel employed
18 by the parties hereto, nor financially interested in its
19 outcome.

20 I further certify that in accordance with CR
21 30(e), the witness was given the opportunity to examine,
22 read, and sign the deposition, within 30 days, upon its
23 completion and submission, unless waiver of signature was
24 indicated in the record.

25 IN WITNESS WHEREOF, I have hereunto set
my hand this 8th day of October, 2018.

Heidi Aspelund



NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

EXHIBIT F

From: Hinds, Patrick [mailto:Patrick.Hinds@kingcounty.gov]
Sent: Saturday, February 25, 2017 12:23 PM
To: Sherman, Bill (ATG)
Subject: RE: Documents for tomorrow's meeting

Bill,

I didn't expect you to be there. I told Paul and Wendy that, if someone from the AGO were to take on the case, it would likely not be someone from your group (since, at this point, it's much more of an economic crime rather than an environmental one). Forgive me if I spoke out of turn, but that was my understanding based on our previous conversation and it seemed like it was something they should know.

Having said that, my understanding is that Paul and/or Wendy will be reaching out to you again in the near future to try to figure out who from the AGO would take on a case like this one if no country prosecutor did or if the involved counties jointly agreed to relinquish jurisdiction. This is based on my very strong encouragement that they needed to set up a meeting with someone from Pierce Co, Sno Co, the AGO, and me to present and discuss the case. I'm still concerned that the nexus to King County is so limited that KCPAO won't take it. And WDFW is at the point where they need to start making decisions about final steps and potential charges. If KCPAO say "no," I don't want WDFW to be in the position of trying to find someone else to take it on and having that someone else decline to do it (or be hesitant to do so) because they were not included in these discussions or of WDFW having to do additional work because the other entity has different thoughts or requirements on how to charge/approach the case.

So...heads up that that's likely coming. And let me know if what I told them about your group was incorrect or out of line. If was, I apologize and will reach out to correct it.

Thanks,
patrick

From: Sherman, Bill (ATG) [<mailto:BillS5@ATG.WA.GOV>]
Sent: Friday, February 24, 2017 2:36 PM
To: Hinds, Patrick
Subject: FW: Documents for tomorrow's meeting

Patrick – were Scott or I expected at this meeting today? I’m really sorry if so. Looking over the emails that led up to it, I wasn’t ever clear on that.

Let me know if you’d like to talk.

Bill

From: Willette, Wendy M (DFW)
Sent: Thursday, February 23, 2017 9:46 AM
To: patrick.hinds@kingcounty.gov; Sherman, Bill (ATG); Golden, Paul D (DFW); WLOMAITS@MSN.COM; Lopez Joseph C
Subject: Documents for tomorrow's meeting

Hello,

In preparation for our meeting tomorrow, Investigator Omaitis has prepared several financial schedules and a narrative of chronological financial activity for our primary suspects. Please review these items prior to the meeting. I will also bring hard copies for everyone, so you should not need to print them out. We will discuss these findings in greater detail tomorrow and outline our plan from here.

See you all then.

Thank you,



Detective Wendy Willette, W-53

Washington Department of Fish and Wildlife
Law Enforcement Program
16018 Mill Creek Boulevard
Mill Creek, WA 98012

 425-775-1311 / (Fax) 425-338-1066

 425-681-9428

 wendy.willette@dfw.wa.gov

 [WDFW Police on Facebook](#)

EXHIBIT G



State of Washington
DEPARTMENT OF FISH AND WILDLIFE
North Puget Sound • Region 4 • 16018 Mill Creek Blvd., Mill Creek, WA 98012-1296
Telephone: (425) 775-1311 • Fax: (425) 338-1066

CONFIDENTIAL MEMO TO THE PROSECUTOR

TO: Sloan Johnson
Deputy Prosecuting Attorney
Skagit County Prosecuting Attorney's Office
605 S 3rd Street
Mount Vernon, WA 98273

FROM: Detective Wendy Willette, W-53
Washington Department of Fish and Wildlife
16018 Mill Creek Blvd
Mill Creek, WA 98012
425-681-9428

RE: WA-15-007473

Date: 6 February 2018

RECEIVED
SKAGIT COUNTY
PROSECUTING ATTORNEY
2018 FEB 12 PM 12:32

Hello,

Please find enclosed the case report we previously discussed. Some records are being provided in hard copy format. Other records were too large to print and mail or exist solely in electronic format. All documents, both hard copy and electronic, are included on a password-protected thumb drive included in this mailing. The password is **password&1**.

A few notes on some items you will encounter in this case:

The records provided include an application for a shellstock shipper's license from the Department of Health. For clarification, Puget Sound Seafood Distributors LLC did attempt to become licensed through DOH, including filling out an application and sending a check to DOH. DOH advised PSSD that prior to beginning operations, they needed to develop a HCAAP plan and create certification tags that met NSSP requirements. The company was required to notify DOH of their compliance to these rules in order to activate their shellstock shipper license. They never did. I believe this clearly demonstrates their knowledge to laws and rules regarding commercial shellfish.

The records provided include numerous search warrants. I have only included the warrants that existed up to the point of the discovery of the illegal clams. All search warrants following that discovery were related to the financial investigation and have no bearing on the charges being forwarded here.