

NO. 58881-1-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

SAVE THE DAVIS MEEKER
GARRY OAK,

Appellant,

v.

DEBBIE SULLIVAN, in her
capacity of Mayor of Tumwater,

Respondent.

DECLARATION OF
LAURA YOUNG IN
SUPPORT OF
MOTION FOR
INJUNCTIVE
RELIEF PURSUANT
TO RAP 8.3

I, LAURA YOUNG, declare under the penalty of perjury under the laws of the State of Washington that I have read the following declaration, have personal knowledge as to its contents, and it is true and correct to the best of my knowledge.

1. I am a founding member of Save the Davis Meeker Garry Oak. I also was a founding board member of the Squaxin Museum Library and Research Center. I am a professional archivist and hold a Masters in Public Administration. I am a past member of the Society of

American Archivists, the Association of Moving Image Archivists, and the American Society for Public Administration. I have worked in the private sector and for the Washington Secretary of State on the state historic census project.

2. I was married to an enrolled member of a local tribe. We share children from that marriage who are also enrolled members of the tribe.

3. The City of Tumwater has a webpage about the oak tree, and it states that “accounts about its being an Indian gathering site have not been verified.”¹ This claim is not true. Evidence of the tree itself being an established meeting place is historically documented. I will provide a supplemental declaration soon with that documentation.

4. This tree is known as one of the few territorial trees in the area used to hang Indigenous People as a method

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<https://www.ci.tumwater.wa.us/Home/Components/FacilityDirectory/FacilityDirectory/48/3381>.

of forced property eviction before and during the regional Indian War of 1855-1856. After settlers arrived, vigilantes used it to hang Native Americans from one of its branches.

5. This tree was on a camas prairie that was later named “Bush Prairie” after two pioneers: George Bush (one of the first African Americans to settle in the Washington Territory) and his wife Isabella. There were three longhouses between that prairie and the Deschutes River to the east, as well as many smaller village settlements.

6. It is estimated that there were 800 to 1,000 Indigenous people living between that area and northward and eastward to the falls (present-day Tumwater Falls) and the bay (present-day Budd Inlet). That is a lot of people. Those people were all forced to leave their villages, including the village of Bus-chut-hwud, the “Village Frequented by Bears,” after the Indian War in 1855 and 1856. The story of their displacement is truly heartbreaking and atrocious.

7. The tree is on the traditional Cowlitz Trail, which later became the Oregon Trail. The Cowlitz Trail is thousands of years old. New research comes in all the time, but current documented research indicates it was at least 9,000 years old and might be over 14,000 years old. The Cowlitz Trail was the main land and water transportation and trading route connecting Indigenous people living up and down what is now considered the I-5 corridor, including reaching northward into what is now British Columbia, Canada, and southward to the Columbia River. Not far from the tree was an intersection to an east-west trail called the Cowlitz to Yakama Trail, which went over the mountains to eastern Washington and northwest to the Hood Canal area of the Twana and Skokomish Tribes and the Quinault Nation.

8. Shade next to a major trading route in the middle of a prairie where there was otherwise little shade would have been vitally important for travelers who needed to cool off and rest. Moreover, the path of the Cowlitz Trail bends at the

location of the tree, veering to the north. This particular Native oak is believed to be one of the very few still standing, as the oak arbor (i.e., grove) that was there for hundreds of years was removed for road development and by the Port of Olympia as part of airport development, with no regard for the historic significance and Treaty significance. Also, there used to be a large oak tree on the east side of Old Highway 99 that joined canopies with the Davis Meeker oak, forming a bridge above the road. But this tree was removed by the Port of Olympia.

9. Native Americans often planted Garry oaks as an agricultural crop, and they also modified trees of all species to be directional markers by tying a branch toward the stem (i.e., trunk) when the tree was still a sapling, later releasing the branch once the desired shape and direction was set. The Treaty of Medicine Creek reserves the right for Tribal members to harvest nuts, seeds, and gather berries, and roots from in their traditional areas. The 400 year old oak tree is one of those traditional areas; camas, wild carrots, onions were

harvested at this ancient site, with the tree providing shade as a resting place after Tribal people finished a day of gathering and harvesting the gifts of the land.

10. The tree is still important to this day to Squaxin Tribal People, including my nieces and nephews, for both Treaty reasons and historical reasons, but also for spiritual reasons. For them it has spiritual value. For them, trees have and make memories. While this goes contrary to current modern societal values where we see trees as only a renewable resource, recent scientific studies are finding that this type of Native Science is more than a spiritual value. For this reason, Tribal Elders such as Michael Krise see the tree as a teacher, a grandparent who has things to teach his grandchildren and all of us.

11. Attached hereto as **Exhibit A** is a true and correct copy of an overlay map created by Karen Johnson of the Tumwater Historical Association. It is a combination of the 1854 survey map, showing the path of the old Cowlitz Trail,

and a modern aerial map. The red dot is the Davis Meeker oak. To its right is the Cowlitz Trail. Then to its right is part of the George and Isabella Bush family's farmland, denoted by a scalloped border.

12. Given the fact that the trail changes direction at the tree, and the rich documented oral history of today's neighboring Tribal People, it is unlikely that the tree was not used as a directional marker. There is a large branch scar where a branch used to exist directly opposite of the northward shift in the trail. That branch, which is now gone, could have been culturally modified to point in that northward direction to alert travelers of the bend in the trail.

13. In addition to being a trail marker, the tree is also a Native American burial marker. Burial traditions vary from tribe to tribe, but one constant remains among them: caretaking of the dead is something all tribes consider sacred. And yet, there is a long history of Native Americans' bones and burial remains being stolen by individuals and institutions. Just

yesterday, I received a link to a news story from my nephew about a place that recently got put on the national historic record, and then it was immediately pillaged for archeological remains.

14. The Indigenous People of the United States fought for nearly two centuries to have their dead honored. In 1990, Congress passed the Native American Graves Protection and Repatriation Act. This federal law enables tribes and lineal descendants to reclaim ancestral remains from museums and federal agencies in the United States. To this day, tribes are working to return their sacred dead back to the earth.

15. Because of this history, Native Americans are reluctant to publicize the fact that the Davis Meeker oak is a grave marker. The relatives of those buried there still live locally and are aware of, and sickened by, the City of Tumwater's recent efforts to remove the tree. I know these people. They are my relatives, my family, my friends. I have spoken with them about it. They have told me that when people

were hung from the tree, their bodies were buried on top of these people's relatives' graves.

16. We hope that those with relatives buried at the tree will feel comfortable coming forward publicly. But this is their decision and not ours.

17. The chances of this tree *not* being a grave marker are smaller than the chances of it being a grave marker. This is because the tree is extremely old, it is on the heavily used path of the Cowlitz Trail, and large, old oak trees were commonly used as grave markers because they lived so long and remained standing so long after the tree had died.

18. As a sixth generation Washington Pioneer Daughter, my own family and I have a special connection to this tree. It marked the trail during territorial days for my ancestor Ira Ward, beginning in 1849. He donated the land and helped build the first Masonic Lodge in Washington in 1853, 36 years before statehood, and donated the land for the Masonic Memorial Park in Tumwater, and he served on the

first Washington Territory Legislature. Ward Lake, a popular lake in Olympia, was named after him.

19. My family has continued to visit this trail marker oak tree since 1849, down through the generations. My mother Sharon Brown picnicked as a little girl with her mother, my grandmother Carolyn Ward Brown, and her grandmother, my great grandmother Bertha Marie Ward under the oak tree before I-5 was constructed, and before the Deschutes River was blocked by the dam to become a man-made lake in downtown Olympia. She has asked me personally to save this tree for our family and to look for the remaining oaks and oak arbors in Tumwater because they are part of our family history.

20. Because of this special connection we have to this tree, losing it would personally harm me, my family, and my descendants (in addition to harming Save the Davis Meeker Garry Oak, of which I am an active and dedicated member). It would prevent us from ever visiting our family's living history again. This would cause me extreme heartache. As long as the

tree is alive, I and other members of my family and other members of Save the Davis Meeker Garry Oak derive pleasure from observing, photographing, and studying the wildlife living in grandmother oak.

21. If the City of Tumwater is allowed to destroy this tree, my opportunity to observe the wildlife in it and come visit the tree with my family and talk to them about our heritage would be eliminated. In addition, I would be adversely affected by the sight of the tree being cut down and then by the sight of the stump on the ground every time I drive by on Old Highway 99.

22. Since the mayor has begun efforts to cut it down, I have spent countless nights guarding the tree. This has given me extra time to watch a pair of kestrels using a nest cavity in the tree high up. The birds are famous, as people come from all around to try to get a picture or video of them. It is not easy, because they are naturally careful about letting anyone see

them entering and exiting the nest cavity. I feel fortunate to have seen them do this several times and hear their songs.

23. The male kestrel has a favorite perch across the road on top of a Douglas fir. I've watched him chase off red-tailed hawks that get too close to the nest cavity.

24. While visiting the oak tree, I and another member of Save the Davis Meeker Garry Oak have also observed and photographed Duskywing caterpillars. The Propertius Duskywing butterfly caterpillars and pupae feed exclusively on Garry oak trees. While not endangered, they are categorized as a "Species of Greatest Conservation Need" by WDFW, Washington Department Fish and Wildlife. In Washington, there are only 6 to 10 known populations of this species. Removal of this tree would be a threat to their habitat.

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I declare under the penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 2nd day of July, 2024, at Olympia, Washington.


LAURA YOUNG

Exhibit A



EXHIBIT A