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**POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON**

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PUGET SOUNDKEEPER
ALLIANCE,

PCHB No. 08-008

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Appellant,

STIPULATION AND AGREED
ORDER OF DISMISSAL

9

v.

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STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

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Respondent.

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Respondent, State of Washington, Department of Ecology (Ecology), represented by Robert M. McKenna, Attorney General and Joan M. Marchioro, Senior Counsel, and Appellant, Puget Soundkeeper Alliance, represented by Richard Smith and Smith & Lowney, PLLC, hereby submit this Stipulation and Agreed Order of Dismissal to the Pollution Control Hearings Board (Board) as a full and final resolution of the above-referenced appeal, and request that the Board dismiss the appeal with prejudice.

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I. STIPULATION OF FACTS

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1. Ecology reissued the Boatyard General NPDES Permit (Permit) on November 2, 2005, with an effective date of December 2, 2005. Puget Soundkeeper Alliance (PSA) and the Northwest Marine Trade Association (NMTA) appealed the Permit. While the appeal was pending, Ecology issued a modification to the Permit on May 20, 2006. PSA and NMTA

1 appealed the modified Permit. The appeals were consolidated for hearing, which was held July
2 10 – 14, 2006.

3 2. On January 26, 2007, the Board issued its Findings of Fact, Conclusions of Law,
4 and Order in the consolidated appeals. Both PSA and NMTA appealed the Board's decision to
5 Thurston County Superior Court.

6 3. Based in part on the Board's decision and on the agreement of the parties,
7 Ecology modified the Permit for a second time. The second modification had an effective date
8 of January 19, 2008. PSA timely appealed the modified Permit, which is the subject of this
9 appeal.

10 II. STIPULATION

11 The parties wish to avoid the time and cost of further litigation of this matter, and
12 therefore, stipulate and agree as follows:

13 1. Ecology will conduct a receiving water study during the winter season of 2008
14 and 2009. The Scope of Work for the study will be developed by Ecology, PSA and NMTA.
15 The receiving water study is currently underway.

16 2. In consideration of this stipulation, PSA agrees to dismiss this appeal. Further,
17 PSA, its heirs, assigns, or other successors in interest, agrees to release and discharge the STATE
18 OF WASHINGTON, DEPARTMENT OF ECOLOGY and its officers, agents, employees,
19 agencies and departments from all existing and future claims, damages and causes of action of
20 any nature arising out of *Puget Soundkeeper Alliance v. Department of Ecology*, PCHB No. 08-
21 008 including all claims for personal injuries, attorney fees and costs to PSA including those
22 injuries and damages stated in the claims for damages previously filed (if any).

3. PSA agrees that this is a final and complete release of all damages, including all
unknown and unanticipated damages, arising out of the above stated circumstances and appeal as
well as those now known or disclosed.

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4. PSA declares that it read and understood and voluntarily accepts the terms of this agreement for the purpose of making a final settlement of any and all claims, disputed or otherwise.

5. The parties agree that the Board may enter the following Order of Dismissal.

DEPARTMENT OF ECOLOGY

PUGET SOUNDKEEPER ALLIANCE


KELLY SOSEWIND
Program Manager
Water Quality Program

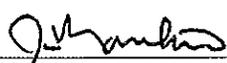

SUE JOERGER
Puget Soundkeeper

Dated: 1/23/09

Dated: 1/9/09

ROBERT M. McKENNA
Attorney General

SMITH & LOWNEY, PLLC


JOAN M. MARCHIORO, WSBA #19250
Assistant Attorney General
Attorneys for Respondent
(360) 586-6770

 ^{WSBA# 38806} for
RICHARD SMITH, WSBA #21788
Attorneys for Appellant
(206) 860-2883

Dated: Jan 22, 2009

Dated: 1/13/09

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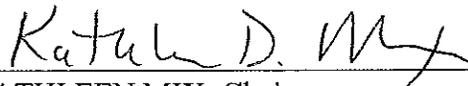
ORDER OF DISMISSAL

Having reviewed the foregoing Stipulation and the file and pleadings herein, and it appearing that the parties have reached an agreement;

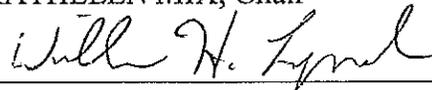
IT IS HEREBY ORDERED that the foregoing stipulation is entered by the Board, and this case, *Puget Soundkeeper Alliance v. Department of Ecology*, PCHB No. 08-008, is hereby DISMISSED with prejudice and without costs or attorneys fees.

DATED this 27th day of January, 2009.

POLLUTION CONTROL HEARINGS BOARD



KATHLEEN MIX, Chair



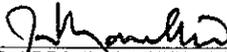
WILLIAM LYNCH, Member



ANDREA MCNAMARA DOYLE, Member

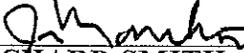
1 Presented by:

2 **ROBERT M. MCKENNA**
3 Attorney General

4 
5 **JOAN MARCHIORO, WSBA 19250**
6 Assistant Attorney General

7 Attorneys for Respondent
8 State of Washington,
9 Department of Ecology

10
11 Approved as to Form;
12 Notice of Presentation Waived:

13
14  
15 **RICHARD SMITH**
16 Smith & Lowney, PLLC

17 Attorneys for Appellant
18 Puget Soundkeeper Alliance
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