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**BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON**

PICK'S COVE MARINE CENTER,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 97-67

**STIPULATION AND AGREED
ORDER OF DISMISSAL**

Appellant, Pick's Cove Marine Center (Pick's Cove), appearing by and through its General Manager, Richard Hamstreet pro se, and Respondent, State of Washington, Department of Ecology (Ecology), by and through its attorney, Jo Messex Casey, Assistant Attorney General, agrees and stipulates to the entry of this Stipulation and Agreed Order of Dismissal in the form attached.

I. STIPULATED FACTS

A. On April 1, 1993, Pick's Cove was issued coverage under the Boat Building and Repair Facilities National Pollutant Discharge Elimination System (NPDES) General Permit No. WAG 03-1021.

B. On December 18, 1995, Ecology sent a certified letter to Pick's Cove requiring all stormwater monitoring reports be submitted before January 15, 1996.

C. On March 19, 1996, Ecology issued a Notice of Correction (NOC) to Pick's Cove based on Chapter 403 of the Public Laws of 1995. The NOC required Pick's Cove to

1 make up for past deficiencies in monitoring required by NPDES Permit No. WAG 03-1021
2 by collecting specified monitoring data.

3 D. On February 27, 1997, Ecology issued Notice of Penalty Incurred and Due No.
4 DE 97WQ-S131 for \$2,000.00 (two thousand dollars) to Pick's Cove.

5 E. On March 10, 1997, Pick's Cove submitted an Application for Relief from
6 Penalty No. DE 97WQ-S131 to Ecology.

7 F. On April 8, 1997, Ecology issued Notice of Disposition Upon Application for
8 Relief from Penalty No. DE 97WQ-S131 reducing the Penalty to \$1,000.00.

9 G. On May 6, 1997, Pick's Cove appealed Ecology's Penalty Assessment
10 No. DE WQ97-S131. The appeal was assigned PCHB No. 97-67.

11 II. STIPULATION

12 The parties wish to avoid the time or cost in further litigation of this matter, and
13 therefore, without admitting guilt or liability, stipulate and agree as follows:

14 A. Pick's Cove shall collect the remaining samples required under the current
15 permit.

16 B. Pick's Cove will pay \$250.00 (two hundred fifty dollars) of the \$1,000 (one
17 thousand dollars) of penalty to Ecology within thirty (30) days of signature of this order by
18 the Pollution Control Hearings Board. Payment will be made to Department of Ecology,
19 Cashiering Section, P.O. Box 45128, Olympia, Washington 98509-5128.

20 C. Ecology will waive \$500.00 (five hundred dollars) of the \$1,000 (one thousand
21 dollars) penalty on the conditions that:

22 1) Pick's Cove pays the \$250.00 (two hundred fifty dollars) penalty referenced
23 in paragraph B above in full within thirty (30) days of signature of this order by the
24 Pollution Control Hearings Board;

25 2) Within thirty (30) days of signature of this order by the Pollution Control
26 Hearings Board Pick's Cove shall contribute \$250.00 (two hundred fifty dollars) directly to

1 the Puget Soundkeeper Alliance (PSA) at 1415 W. Bravus, Seattle, WA 98119, Attn: Pat
2 Pearson. This contribution is made for the purpose of conducting a permit compliance
3 workshop on the renewal of the Boat Building and Repair Facilities National Pollutant
4 Discharge Elimination System Waste Discharge Permit (Boatyard General Permit). This
5 permit compliance workshop will focus on the monitoring requirements and best
6 management practices associated with the Boatyard General Permit, anticipated to be issued
7 in November-December 1997. Within two weeks of the date of the contribution to PSA,
8 documentation of the contribution shall be provided to Jo Casey, Assistant Attorney
9 General, Office of the Attorney General, P.O. Box 40117, Olympia, WA 98504-0117;

10 3) Pick's Cove does not violate provisions of RCW 90.48 et. seq. or any
11 provision of Pick's Cove NPDES permit for a one-year period beginning on the date this
12 order is signed by the Pollution Control Hearings Board; and,

13 4) On or before December 31, 1997, Kimberlee Randolph, Dale Calkins and Neil
14 Edwards shall attend a Boatyard General Permit compliance workshop approved by
15 Ecology;

16 5) Pick's Cove complies with all provisions contained in this Stipulation
17 including paragraph D, below.

18 D. In the event Pick's Cove fails to comply with conditions 1-5 of paragraph II.C.
19 above, the \$500.00 (five hundred dollars) waived in paragraph II.C., shall become
20 immediately due and payable to the State of Washington, Department of Ecology at the
21 above address. Pick's Cove shall be responsible for all expenses associated with the
22 collection of this penalty.

23 E. In the event Pick's Cove fails to pay the \$250.00 (two hundred fifty dollars) as
24 required under paragraph II.C.2., Pick's Cove shall be responsible for all expenses
25 associated with collection of this penalty.
26

1 F. This Stipulation resolves all disputes arising from Ecology's decision on Permit
2 WAG 03-1021, and this appeal. The parties agree that the Board may enter the following
3 Order of Dismissal.

4 RESPECTFULLY SUBMITTED this ____ day of _____, 1997.

5
6 **STATE OF WASHINGTON**
DEPARTMENT OF ECOLOGY

PICK'S COVE MARINE CENTER

7
8 _____
9 **BILL BACKOUS**
Water Resources
Section Supervisor

_____ **RICHARD HAMSTREET, pro se**
General Manager

10
11 Approved as to form and content:

12 **CHRISTINE O. GREGOIRE**
Attorney General

13
14
15 _____
16 **JO MESSEX CASEY, WSBA #19161**
Assistant Attorney General
Attorneys for State of Washington
17 Department of Ecology

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Approved as to form; notice
of presentation waived:

PICK'S COVE MARINE CENTER

RICHARD HAMSTREET, pro se
General Manager

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