

Pollution Control Hearings Board
Shorelines Hearings Board
Forest Practices Appeals Board
Hydraulic Appeals Board
Environmental and Land Use Hearings Board



Telephone: (360) 459-6327
FAX: (360) 438-7699
Email: eho@eho.wa.gov
Website: www.eho.wa.gov

STATE OF WASHINGTON
ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Ave. SE, Bldg. 2, Rowe Six
PO Box 40903, Lacey, WA 98504-0903

05 MAR 31 10:33

March 30, 2005

DEPT. OF EC.
FISC. & MGMT. DIV.
JUDGE

Gillis E. Reavis
Jay J. Manning
BROWN REAVIS & MANNING PLLC
1201 Third Avenue
Suite 320
Seattle WA 98101

Ronald L. Lavigne
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia WA 98504-0117

RE: PCHB NO. 04-121
PORTAC, INC. v. ECOLOGY (#1476)

Dear Parties:

Please find enclosed a Dismissal Order with attached Stipulation and Agreed Order of Dismissal.

The Board appreciates the parties' efforts in resolving this appeal.

Sincerely yours,

Kay Brown
Administrative Appeals Judge, Presiding

KB/jg/P 04-121 ltr

Cc: Leann Ryser - Ecology
Enc.

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid to the attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
DATED March 29, 2005 at Lacey, WA.

- cc: Enf Database Coord.
- Rev/Rec Cost Recovery
- Mars P E
- orig: File - Fax to ATG
- ATG Docket Clerk
- AM

Initial: AM



BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

PORTAC, INC.,

Appellant,

v.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB NO. 04-121

DISMISSAL ORDER

The Board, having received a stipulation and request for dismissal from the parties, and it appearing that there is no contested case remaining for hearing, IT IS ORDERED that the case is DISMISSED with prejudice and without costs or attorneys' fees.

DATED this 30th day of March, 2005.

POLLUTION CONTROL HEARINGS BOARD

William H. Lynch
WILLIAM H. LYNCH, Chair

B. Clarke
BILL CLARKE, Member

David W. Danner
DAVID W. DANNER, Member

K. M. Brown
Kay M. Brown
Administrative Appeals Judge, Presiding

DISMISSAL ORDER
PCHB NO. 04-121

(1)

RECEIVED
MAR 28 2005

ENVIRONMENTAL
HEARINGS OFFICE

POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

PORTAC, INC.,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 04-121

STIPULATION AND AGREED
ORDER OF DISMISSAL

COMES NOW, appellant, Portac, Inc. ("Portac"), by and through its attorneys, Cascadia Law Group PLLC, and Gillis E. Reavis; and respondent, State of Washington, Department of Ecology ("Ecology") by and through its attorneys, Rob McKenna, Attorney General, and Ronald L. Lavigne, Assistant Attorney General, and agree to the entry of this Stipulation and Agreed Order of Dismissal in the form attached.

RECITALS

1. On or about August 3, 2004, Ecology issued Notice of Penalty Incurred and Due No. 1476 ("the Penalty") to Portac in the amount of \$13,000 for alleged violations of Chapter 90.48 RCW at the Portac Planer Mill in Forks, Washington.

2. On or about September 3, 2004, Portac appealed the Penalty to the Pollution Control Hearings Board ("Board").

STIPULATION

1. Within thirty days of the date the Board enters the attached Agreed Order of Dismissal, Portac shall pay a penalty of \$6,500. Portac's penalty payment shall be made to:

1 Department of Ecology
2 c/o Fiscal Cashier
3 P.O. Box 5128
4 Lacey, WA 98503-2101

5 2. Within thirty days of the date the Board enters the attached Agreed Order of
6 Dismissal, Portac shall contribute \$6,500 to the Hoh River Trust to be used to help purchase
7 and preserve sections of the Hoh River that are currently under private ownership. Portac
8 shall provide notification of its financial contribution to the Hoh River Trust to:

9 Ronald L. Lavigne
10 Attorney General's Office
11 Ecology Division
12 P.O. Box 40117
13 Olympia, WA 98504-0117

14 and to:

15 Marc Pacifico
16 Department of Ecology
17 Southwest Regional Office
18 Water Quality Program
19 P.O. Box 47775
20 Olympia, WA 98504-7775

21 3. Portac stipulates that it will not claim any tax benefit for its financial
22 contribution to the Hoh River Trust. Portac also stipulates that any public statements made in
23 connection with its financial contributions to the Hoh River Trust shall include a statement
24 that the financial contribution was made as part of a settlement to resolve a civil penalty
25 issued by Ecology.

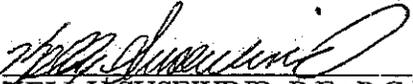
26 4. If Portac fails to timely make either of the payments specified in paragraphs 1
and 2 of this Stipulation, the \$13,000 penalty shall become immediately due and payable. The
parties stipulate that Ecology shall be entitled to recover all of its costs, including attorney
fees, in any action brought to enforce this Stipulation.

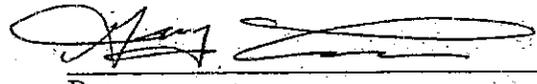
5. The undersigned representatives for Ecology and Portac certify that they are
fully authorized by the party whom they represent to enter into the terms and conditions of
this Stipulation and Agreed Order of Dismissal and legally to bind such party thereto.

1 Ecology and Portac consent to the submission of this Stipulation and Agreed Order of
2 Dismissal to the Board for approval and entry.

3 STATE OF WASHINGTON
4 DEPARTMENT OF ECOLOGY

PORTAC, INC.

5 
6 KELLY SUSEWIND, P.E., P.G.
7 South west Regional Manager
8 Water Quality Program


By: Gary Takahashi
Its: President

Dated: 3/16/05

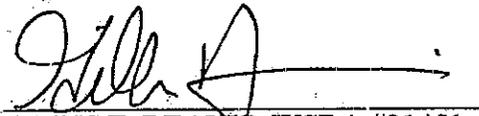
Dated: 3-2-2005

Approved as to form and content:

9 ROB McKENNA
10 Attorney General

CASCADIA LAW GROUP PLLC

11
12 RONALD L. LAVIGNE, WSBA #18550
13 Assistant Attorney General
14 Attorneys for Department of Ecology


15 GILLIS E. REAVIS, WSBA #21451
16 Attorneys for Portac, Inc
17
18
19
20
21
22
23
24
25
26

