



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

629 Woodland Square Loop SE 4th Floor • Lacey WA 98503

Mailing Address: PO Box 40117 • Olympia WA 98504-0117

RECEIVED

April 13, 1998

APR 14 1998

Mark M. Myers
Williams, Kastner & Gibbs
601 Union Street, Suite 4100
P.O. Box 21926
Seattle WA 98111-3926

DEPT. OF ECOLOGY

Re: *Rempel Brothers Concrete Inc. v. Ecology*, PCHB No. 98-001

Dear Mark:

The Department of Ecology reviewed Rempel Brothers' settlement proposal of April 8, 1998. Ecology is willing to accept the proposal with the following modifications:

1. Any Supplemental Environmental Project undertaken by Rempel Brothers may not benefit the company. As with the Fred Hill Materials settlement, Ecology requires that any SEP undertaken benefit the general area. The projects mentioned in your letter appear to focus on activities that would provide a benefit, aesthetic or otherwise, solely to Rempel Brothers' property. This issue can be more fully discussed between the parties in the creation of the SEP.
2. Rempel Brothers must be in full compliance with its NPDES Permit at the time the settlement agreement is executed. This includes the lining of the truck washout pond, creation of a Stormwater Pollution Prevention Plan, monitoring of wastewater, and filing of reports with Ecology.

Ecology staff will provide necessary assistance in development of Rempel Brothers SEP, as well as explaining the requirements of the NPDES Permit. A meeting between our respective clients following execution of the settlement agreement should assist in accomplishing the provisions of the settlement.



ATTORNEY GENERAL OF WASHINGTON

Mark M. Myers

April 13, 1998

Page 2

If you have any questions regarding these matters, please call me at (360) 459-6320.
Thank you for your assistance in resolving this appeal.

Very truly yours,



JOAN M. MARCHIORO
Assistant Attorney General
(360) 459-6320

JMM:cjw

jmm\rempel\settlement proposal

cc: ~~John Drabek~~
Ken White

Williams, Kastner & Gibbs PLLC

LAW FIRM

Mark M. Myers
Attorney at Law
(206) 628-6633
myersmm@wkg.com

Two Union Square
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
P.O. Box 21926
Seattle, Washington 98111-3926
Telephone (206) 628-6600
FAX (206) 628-6611

April 8, 1998

13810.116

Joan M. Marchioro
Assistant Attorney General
Attorney General of Washington
Ecology Division
629 Woodland Square Loop SE, 4th Fl.
Lacey, WA 98503

Re: Rempel Brothers Concrete Inc. v. Ecology
PCHB No. 98-001

Dear Joan:

My client, Rempel Brothers Concrete Inc., is very interested in pursuing a settlement of the Department of Ecology Notice of Violation and accompanying \$9,000.00 fine, which is the subject of the current appeal to the PCHB. You and I have discussed the option of reaching a settlement similar to the one Ecology entered into with Fred Hill Materials. The Fred Hill Materials settlement involved the payment of some money to Ecology and the performance of a Supplemental Environmental Project (SEP) within a certain agreed time period.

Rempel Brothers proposes the following general settlement terms to resolve this matter. Rempel Brothers will pay Ecology \$1,500.00 within thirty days of executing a settlement agreement and stipulation for dismissal. Rempel Brothers will develop a SEP plan for approval by Ecology. The SEP shall have a value of \$7,500.00. Ecology will provide Rempel Brothers with advice and assistance in developing the SEP plan. Rempel Brothers will perform the SEP within six months after Rempel and Ecology agree to the SEP plan.

Should Ecology and Rempel not agree to a SEP, Rempel shall pay Ecology \$7,500.00 in installment payments. Rempel shall pay \$500.00 within thirty days after either Rempel or Ecology notifies the other in writing that a SEP will not be agreed to. Rempel shall make seven \$1,000.00 payments each month thereafter to Ecology.

Joan M. Marchioro
April 8, 1998
Page 2

As I have mentioned to you, Rempel Brothers needs guidance regarding an appropriate SEP. Rempel Brothers has what may be a wetlands on a portion of its property that is unaffected by the mining operation. In addition, the road from the highway to the gravel mine has ditches that may provide an opportunity for environmental enhancement. Dave Walden at Rempel Brothers would appreciate Ecology's help in evaluating an appropriate SEP.

If Ecology is agreeable to the settlement outlined in this letter please let me know.

Very truly yours

WILLIAMS, KASTNER & GIBBS PLLC



Mark N. Myers
MMM:wp

cc: Dave Walden

VIA FACSIMILE AND US MAIL

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97WQ-N28
J. Glynn (360) 459-6327
(FAX) (360) 438-7699
E-Mail: EHO@EHO.WA.GOV

STATE OF WASHINGTON
ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Avenue SE, Bldg. 2, Rowe Six
P.O. Box 40903, Lacey, WA 98504-0903

'99 MAY 26 AM 10:05

May 25, 1999

DEPT. OF ECOLOGY
FIELD OFFICE

Mark M. Myers
WILLIAMS KASTNER & GIBBS
Two Union Square
601 Union Street Suite 4100
Seattle WA 98111-3926

Joan Marchioro
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia WA 98504-0117

RE: PCHB NO. 98-001
REMPEL BROS. CONCRETE v. ECOLOGY

Dear Parties:

Enclosed is the Stipulation and Agreed Order of Dismissal in this matter.

The parties' efforts in reaching this settlement are appreciated.

Sincerely yours,

James A. Tupper, Jr.
Presiding

JAT/jg/rempel
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 May 25, 99 at Lacey, WA

RECEIVED

MAY 21 1999

ENVIRONMENTAL
HEARINGS OFFICE

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POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

REMPER BROS. CONCRETE INC.,)	PCHB No. 98-001
Appellant,)	STIPULATION AND AGREED ORDER OF
v.)	DISMISSAL
STATE OF WASHINGTON, DEPARTMENT OF)	
ECOLOGY,)	
Respondent.)	

Appellant, Rempel Bros. Concrete, Inc. (Rempel Bros.) by and through its attorneys, Williams, Kastner & Gibbs PLLC, and Mark M. Myers, and Respondent, State of Washington, Department of Ecology (Ecology) by and through its attorneys, Christine O. Gregoire, Attorney General, and Joan M. Marchioro, Assistant Attorney General, agree to the entry of this Stipulation and Agreed Order of Dismissal in the form attached.

RECITALS

1. On or about November 3, 1997, Ecology issued Notice of Penalty No. DE 97WQ-289 (NOP) to Rempel Bros., assessing a \$9,000.00 penalty for alleged violation of the Sand and Gravel General Permit.
2. On or about November 17, 1997, Rempel Bros. filed an Application for Relief from Penalty with Ecology.

ORIGINAL

1 3. On or about December 3, 1997, Ecology affirmed the NOP by
2 Notice of Disposition No. DE 97WQ-289 (NOD). Rempel Bros. filed its
3 appeal of the NOD with the Pollution Control Hearings Board (PCHB) on
4 or about December 30, 1997.

5 4. On or about April 8, 1998, Rempel Bros. submitted to Ecology
6 for review and approval a proposal for a supplemental environmental
7 project (SEP) with an estimated value of \$7,500.00. Ecology
8 subsequently approved the SEP. The SEP benefits an Island County
9 watershed and it has been approved by the Washington State Department
10 of Fish and Wildlife. The SEP has been completed.

11 STIPULATION

12 1. Within thirty days of the date the PCHB signs the attached
13 Agreed Order of Dismissal, Rempel Bros. shall pay a penalty of
14 \$1,500.00 to Ecology. The penalty shall be paid to:

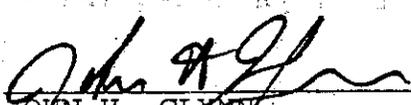
15 Department of Ecology
16 c/o Fiscal Cashier
17 P.O. Box 5128
Lacey, WA 98503-0210

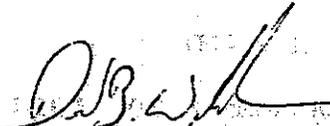
18 2. The undersigned representatives for Ecology and Rempel Bros.
19 certify that they are fully authorized by the party whom they
20 represent to enter into the terms and conditions of this Stipulation
21 and Agreed Order of Dismissal and legally to bind such party thereto.
22 Ecology and Rempel Bros. consent to the submission of this Stipulation
23 and Agreed Order of Dismissal to the PCHB for approval and entry.
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25

1 DATED this 21st day of May, 1999.

2 STATE OF WASHINGTON
3 DEPARTMENT OF ECOLOGY

REMPPEL BROS. CONCRETE, INC.

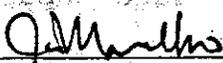
4 
5 JOHN H. GLINN
6 Section Supervisor
7 Water Quality Section
8 Northwest Regional Office

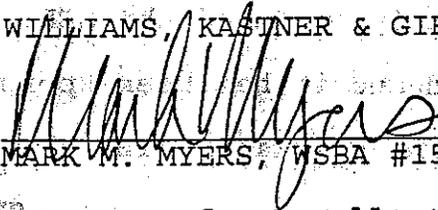
By: 
Its: President

7 Approved as to Form and Content:

8 CHRISTINE O. GREGOIRE

WILLIAMS, KASTNER & GIBBS, PLLC

9 
10 JOAN MARCHIORO, WSBA #19250
11 Assistant Attorney General


12 MARK M. MYERS, WSBA #15362

13 Attorneys for Respondent
14 State of Washington
15 Department of Ecology

16 Attorneys for Appellant
17 Rempel Bros. Concrete

18 AGREED ORDER OF DISMISSAL

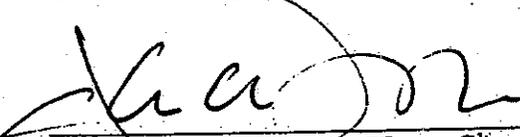
19 Having reviewed the foregoing Stipulation and file and pleadings
20 herein, and it appearing that the parties have reached an agreement:

21 IT IS HEREBY ORDERED that the foregoing Stipulation is entered as
22 an Order of this Board, and this case, Rempel Bros. Concrete Inc. v.
23
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1 Ecology, PCHB No. 98-001, is hereby DISMISSED with prejudice and
2 without costs or attorney's fees.

3 DATED this 25th day of May, 1999.

4 POLLUTION CONTROL HEARINGS BOARD

5 
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JAMES A. TUPPER JR., Chair

7 
8

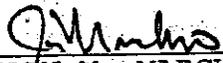
9 ROBERT V. JENSEN, Member

10 
11

12 ANN DALEY, Member

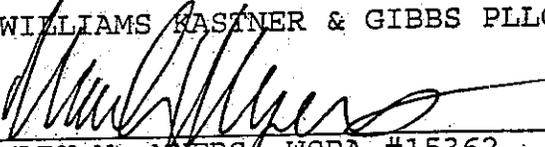
13 Presented by:

14
15 _____
16 CHRISTINE O. GREGOIRE
Attorney General

17 
18 _____
19 JOAN M. MARCHIORO, WSBA #19250
Assistant Attorney General

20 Attorneys for Respondent
21 State of Washington
Department of Ecology

22 WILLIAMS KASTNER & GIBBS PLLC

23 
24 _____
25 MARK M. MYERS, WSBA #15362
Attorneys for Appellant
Rempel Bros. Concrete, Inc.

STIPULATION AND AGREED ORDER OF

Williams, Kastner & Gibbs PLLC
Two Union Square, Suite 4100
Mail Address: P.O. Box 21926
Seattle, Washington 98111-3926