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**BEFORE THE POLLUTION CONTROL HEARINGS BOARD
IN AND FOR THE STATE OF WASHINGTON**

PUGET SOUNDKEEPER ALLIANCE, KING COUNTY, CITY OF TACOMA, WASHINGTON ENVIRONMENTAL COUNCIL, SUQUAMISH TRIBE, CITY OF EVERETT, CITY OF BREMERTON, BIRCH BAY WATER AND SEWER DISTRICT, ALDERWOOD WATER & WASTEWATER DISTRICT, PIERCE COUNTY, and CITY OF EDMONDS,

Appellants,

v.

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Respondent.

PCHB NO. 21-082c

AMENDED STIPULATION FOR PARTIAL STAY OF PUGET SOUND NUTRIENT GENERAL PERMIT

In this consolidated matter King County and City of Tacoma (Tacoma) filed appeals of the Puget Sound Nutrient General Permit (PSNGP) issued by the Department of Ecology (Ecology) on December 1, 2021. King County and Tacoma additionally filed separate motions to stay the PSNGP under RCW 43.21B.320. The cities of Bremerton, Edmonds, Everett, the Birch Bay Water and Sewer District, and Alderwood Water & Wastewater District separately filed notices of appeal that included requests to stay the PSNGP. Pierce County by participating in this stipulation also requests a partial stay of the permit as set forth in this stipulation. King

1 County and Tacoma have conferred with Ecology and separately conferred with the other
2 permittee appellants on the terms of this stipulation.

3 Based on those consultations, the parties to this stipulation have agreed to the following
4 partial stay of the PSNGP which will fully resolve the pending motions for a stay. Ecology has
5 agreed to, and does hereby, exercise its authority under RCW 43.21B.310(1) to the following
6 partial stay of the PSNGP pending the Board's resolution of the appeals in this matter.

7 1. Special Condition S3 – Compliance with Standards - shall be stayed in its entirety
8 pending the Board's resolution of the appeals in this matter.

9 2. Optimization requirements in Special Conditions S4.C.3, S5.C.3, S6.B.2.b require
10 evaluation of opportunities to reduce TIN loads. The conditions do not require permittees to
11 consider optimization strategies that reduce the volume of septage or influent to the subject
12 facilities, impose building moratoria, or require significant operational changes that would
13 reduce treatment capacity at the facilities.

14 3. Special Conditions S4.D.2 and S5.D.2 – Action Level Exceedance Corrective Actions
15 – are stayed in their entirety pending the Board's resolution of the appeals in this matter. The
16 parties to this stipulation agree that in the event monitoring data collected during this stay
17 indicates an exceedance of an action level in accordance with S4.D.2.a or S5.D.2.b, the deadline
18 for submitting a proposed approach to reduce the annual effluent load will be with the Annual
19 report due in the year following the year in which this stay is lifted or otherwise no longer in
20 effect, but in no event earlier than March 31, 2024.

21 4. The requirement for King County to elect whether to apply individual or bubbled
22 action levels for each of its facilities pursuant to Special Condition S4.B is stayed until July 1,
23 2022. King County may change its selection in the report required in Special Condition S4.C.2.

24 5. Reporting requirements under Special Condition S.9 for Action Level Exceedance
25 Corrective Actions stayed under paragraph 3, and provisions in, General Condition G.1 related
26 to Action Level Exceedance Corrective Actions stayed under paragraph 3 are stayed pending the

1 Board's resolution of the appeals in this matter.

2 6. The parties to this stipulation do not waive or concede any claims or defenses in the
3 PSNGP consolidated appeals as to lawfulness and reasonableness of the PSNGP or the specific
4 conditions of the PSNGP that are the subject of this stipulation.

5 Respectfully submitted this 14th day of January 2022.

6 DEPARTMENT OF ECOLOGY

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DECLARATION OF SERVICE

I declare on oath that on this date I filed the foregoing document with the Pollution Control Hearings Board by delivering a copy via electronic mail and by sending the original via U.S. mail, postage paid, addressed as follows:

Pollution Control Hearings Board
P.O. Box 40903
Olympia, WA 98504-0903
eluh@eluh.wa.gov

I further declare that I served a copy of the foregoing document via email upon the parties listed as follows:

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Signed at Seattle, Washington, this 14th day of January 2022.

s/ Susan Barragan
Susan Barragan, Legal Assistant

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