BEFORE THE SHORELINES HEARINGS BOARD AND
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

FRIENDS OF THE EARTH, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-33 SETTLEMENT AGREEMENT AND STIPULATED ORDER OF DISMISSAL
AD HOC COALITION FOR WILLAPA BAY, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-37

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SHOALWATER BAY INDIAN TRIBE, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-38
AD HOC COALITION FOR WILLAPA BAY, Appellant, v. STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF FISH & WILDLIFE; and PACIFIC COUNTY NOXIOUS WEED BOARD, Respondents.	PCHB NO. 94-238
FRIENDS OF THE EARTH, Appellant, v. STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF FISH & WILDLIFE; and PACIFIC COUNTY NOXIOUS WEED BOARD, Respondents.	PCHB NO. 94-239

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This Settlement Agreement and Stipulated Order of Dismissal is made and entered into by and between the appellants FRIENDS OF THE EARTH (FOE), represented by David E. Ortman; AD HOC COALITION (AD HOC), represented by Michael W. Gendler and Jennifer A. Dold; and SHOALWATER BAY INDIAN TRIBE (TRIBE), represented by Craig A. Jacobson, and the respondent PACIFIC COUNTY NOXIOUS WEED BOARD (PCWB), represented by David Burke; the DEPARTMENT OF ECOLOGY (ECOLOGY), represented by Rebecca A. Vandergriff; and intervenors, the DEPARTMENT OF NATURAL RESOURCES, represented by Michael S. Grossmann and the DEPARTMENT OF FISH AND WILDLIFE; represented by Jay D. Geck.

I. **DISPOSITION OF EXISTING LITIGATION**.

FOE, Ad Hoc, and the Tribe agree to dismiss their appeal of the shoreline permit issued to the Pacific County Weed Board for the purposes of controlling Spartina in Willapa Bay, Washington. The permit addressed by this Agreement is Shoreline Permit No. 93-0090 appealed under SHB No. 94-37.

This agreement shall run through the term of the shoreline permit.

II. **AMENDMENT OF PCWB SHORELINE PERMIT**.

Pacific County shall modify the substantial development permit No. 93-0090 to add the following:

1. Prior to undertaking herbicide control of Spartina in Willapa Bay, the permittee shall obtain a WQM from Ecology. The

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permittee must comply with all requirements of the WQM. If Ecology issues a WQM for chemical management of Spartina on private lands in 1995, the WQM shall include the conditions as described by substantive requirements of sections III and V of this Agreement.

2. The WQM application shall contain a detailed description of the method(s), specify the concentration and expected volume of Glyphosate and or other adjuvants (LI-700 only for 1995) approved by Ecology in Willapa Bay and contained in a WQM, to be applied per acre, and specify the mitigation and monitoring plans to be incorporated.

It is not the intent of the settling parties to resolve, in this agreement, the question of whether a substantial development permit is needed for the management of Spartina in Willapa Bay.

III. **TEMPORARY WATER QUALITY MODIFICATIONS (WQM'S)**.

Glyphosate and LI-700 are the approved herbicide and surfactant for chemical control of Spartina for 1995.

Ecology will issue a WQM in the following manner:

1. The PCWB shall exercise good faith efforts to encourage private landowners or applicators to apply for a WQM on or before April 1, 1995.

2. Ecology shall provide FOE, Ad Hoc, and the Tribe with copies of WQM applications as part of Ecology's 21 day review process.

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3. During 1995, Ecology shall only issue WQM's to applicator(s) applying chemicals to private lands that comply with provisions of section V.A. and V.B. of this Agreement, regarding chemical control methods and locations. The appellants will not appeal the WQM's for 1995 if those WQM's comply with the provisions of sections V.A. and V.B. The 1995 WQM to be issued by Ecology to private landowners is attached as Exhibit A. Ecology shall not issue a WQM that exceeds one annual treatment season in duration.

IV. STATEMENT OF DEVELOPING MANAGEMENT STRATEGIES TO BE USED BY PCWB.

Pacific County and PCWB will balance economic, biological, environmental, and social views in determining the best approach to prevent damage to aquatic lands in Willapa Bay from Spartina and from efforts to manage Spartina. Within that context, chemical herbicidal management, the least preferred alternative, should be used only when other management measures will not provide acceptable protection or prevent significant resource losses. The above statement shall be incorporated into any management plan for Spartina management, and into any addenda, adoption, or supplement to the Noxious Emergent Weed Environmental Impact Statement (EIS).

V. SPARTINA MONITORING AND RESEARCH PROGRAMS.

The parties acknowledge that a long-term program for controlling Spartina should include the generation of information about the impacts and comparative impacts of the techniques for controlling Spartina. Efforts of Pacific County

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and PCWB to implement a long-term program of control includes setting priority areas and choosing appropriate control methods. PCWB will be responsible for future updates of the local Integrated Weed Management Plan and any other reports or permits necessary for the continuing management of Spartina. Pacific County and Ecology also have participated in the preparation of the Noxious Emergent Plant EIS that identifies areas in which additional data is desirable. Ecology, through conditions of the 1995 WQM, will support and encourage additional research and monitoring, when proposed or available from federal agencies, groups, or persons and within their legal authority. Whenever possible, Pacific County, PCWB, and Ecology will design or coordinate their research to assist other agencies, groups, or persons. Pacific County and PCWB agree that they have a desire to maximize the quality of the research and monitoring regarding efficacy and impacts or Spartina control methods. Pacific County and PCWB will, within their legal authority, pursue grants for PCWB efforts at research or monitoring. All research or monitoring by parties conducted pursuant to this agreement shall be available to other agencies, persons, or groups conducting research or monitoring and to the appellants, and shall be incorporated into an SEIS.

A. Identifying Priority Areas For Control Of Spartina.

Characteristics used to determine priority areas for control of Spartina include: the environmental value of habitat being colonized by Spartina, the size of the colony, the age of

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the Spartina plant, the proximity of colony to rivers and other means of transporting seed, seed production, presence of eelgrass, and targeting those areas with the highest potential for success of controlling Spartina and the least risk of environmental impact to the surrounding invertebrate and botanical communities.

Priority areas will be determined each year by the PCWB through the County's IWM plan.

1. Priority Areas for Chemical Management.

For 1995, the PCWB shall limit chemical control to the following priority areas:

GU-2	Toke Point-Cedar River
GU-9	Stony Point-Wilson Point
GU-10	Palix River
GU-13	Nemah River
GU-14	Seal Slough
GU-23	Porter's Point
GU-26	Oysterville
GU-27	Stackpole
GU-28	Leadbetter Point

Exhibit B provides estimates of the Spartina coverage within the identified priority units. During 1995 the PCWB shall allow applicators or private landowners to use chemical control methods on no more than 125 net acres of Spartina, either clones or meadows, within the priority areas. The parties agree that the total volume of RODEO used in chemical management of 125 net acres shall not exceed 560 gallons.

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B. Chemical Control Methods.

For 1995, if Ecology issues a WQM, Ecology shall issue a WQM for the following chemical control methods in accordance with the label requirements and the EIS:

1. Ecology will not permit aerial chemical control method to be used by any private landowner for 1995.

2. Wicking and wiping includes hand application and all-terrain vehicle (ATV) application. Wicking and wiping of Spartina in the priority areas listed above shall be allowed and shall meet label requirements, to include applying the herbicide solution to wet the surface of the plant utilizing a 33% solution of Glyphosate combined with clean water and LI-700 added at a rate of 10% by volume of the total solution. Respondents agree that in 1995 the volume of RODEO applied shall not exceed 10 quarts of RODEO per acre when wicking and wiping is the application method. Ecology shall provide FOE, Ad Hoc and the Tribe the spray report verifying the actual volume of Glyphosate and LI-700 applied to the acreage listed above within 30 days after treatment.

3. Backpack and non-aerial broadcast spraying as identified in the EIS shall be allowed as alternate methods of application with restrictions designed to avoid application of Glyphosate and LI-700 outside of the treatment area. Backpack and non-aerial broadcast spraying as identified in the EIS shall meet label requirements, to include spraying plant surfaces to wet them with a 5% solution of Glyphosate combined with clean

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water and a 4% solution of LI-700. Respondents agree that in 1995 the volume of RODEO applied shall not exceed 18 quarts of RODEO per acre when backpack and non-aerial broadcast spraying as identified in the EIS are the application methods. Ecology shall provide FOE, Ad Hoc and the Tribe the spray report verifying the actual volume of Glyphosate and LI-700 applied to the acreage listed above within 30 days after treatment.

4. The quantity and dilution of Glyphosate described in the preceding two paragraphs shall be enforced by Ecology's WQM authority, which includes inspections designed to ensure compliance in both individual applications, sites, and overall compliance with the WQM. It is the intent of the 1995 WQM to require compliance with these standards.

5. Control of Spartina using Glyphosate and LI-700 within identified plots will be limited to no more than one treatment application per plant for 1995 with the exception of touch-up wicking applications as permitted in the WQM. Touch-up wicking is defined as applying Glyphosate and LI-700 onto Spartina which had been overlooked in the original treatment. Touch-up wicking is not intended as a second or followup treatment of Spartina.

6. To insure Pacific County, PCWB and private landowners' continuing efforts towards appropriate control and effective mitigation, a monitoring plan for 1995, attached hereto as Exhibit C, will be implemented so as to provide information on the impacts of using Glyphosate, compliance with mitigation measures, and treatment efficacy. Exhibit C includes monitoring

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for impacts and efficacy under a baywide monitoring **approach** for all control methodologies under IWM.

The promises of the parties to this agreement are conditioned on the execution of Exhibit F, which is the Addendum to the Agreement between the Appellants, DNR, DFW, Ecology, Pacific County and PCWB. If PCWB does not receive applications from private landowners granting access to DNR and DFW for monitoring under Exhibit F, then PCWB will take steps under RCW 17.10.154 to ensure that private lands are available to DNR and DFW for monitoring. Copies of all monitoring reports shall be provided to FOE, Ad Hoc, and the Tribe upon completion.

7. In keeping with WAC 173-201A-110(3)(e)(i) and (ii), the WQM's shall not allow RODEO to be applied during public holidays, and locally identified holidays or celebrations adjacent to or in the immediate vicinity of the area to be treated, and shall require that treatment on weekends be minimized. Weekend treatment may occur if Ecology gives prior authorization.

8. For the 1995 WQM, a timing restriction is imposed limiting the application of any and all chemicals from June 1, 1995 through September 19, 1995.

C. Non-Chemical Means Of Control.

1. Selecting Priority Sites.

Characteristics used to determine priority areas for control of Spartina include: the environmental value of habitat being colonized by Spartina, the size of the colony, the age of

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the Spartina plant, the proximity of colony to rivers and other means of transporting seed, seed production, presence of eelgrass, and targeting those areas with the highest potential for success of controlling Spartina and the least risk of environmental impact to the surrounding invertebrate and botanical communities.

The parties to this settlement will seek to encourage areas to be managed with non-chemical means in 1995, to assure that control activity, research, or monitoring is not biased towards chemical means of control, as IWM adapts during future years. Non-chemical methods will include hand-pulling seedlings and mowing and or covering of clones and meadows.

The PCWB shall make efforts to maintain a public list of non-chemical management resources. This list may include, but is not limited to, the names of individuals or companies who may provide information regarding non-chemical methods of management or names of individuals or companies who may provide bids or services for non-chemical methods of management.

D. Primary Applicators For Non-Licensed Private Landowners.

Pacific County Weed Board will coordinate the hiring of primary applicators for those non-licensed private landowners seeking to manage Spartina within the priority areas. PCWB will develop a list of applicators for private non-licensed landowners to use when hiring an applicator to treat Spartina on their lands. PCWB will solicit approved applicators as follows:

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1. Advertise one day in the Chinook Observer, Aberdeen World and the Willapa Harbor Herald.

2. Receive list of qualified applicators (contractors).

3. Review applicators (contractors) according to the following criteria:

   a. Verify with Department of Agriculture that applicant is a licensed Aquatic Applicator.

   b. Must attend PCWB workshop prior to being listed on the applicators (contractors) list.

   c. Applicators will be subject to background check for qualifications, experience, and references.

   d. PCWB shall contact Department of Agriculture to check on past compliance with license and label requirements.

   e. Applicator shall perform treatment and monitoring procedures as specified in Ecology's WQM.

E. Private Landowners And Applicators Applying For WQM To Control Spartina In Willapa Bay.

Pacific County and PCWB shall notify in writing all private landowners within the priority areas of how Spartina can be chemically managed on those properties during 1995, as follows:

1. Interested landowners within the priority areas may contact the PCWB and request a maximum acreage on which they want to chemically manage Spartina. The actual acreage allotment given to any landowner will be based on the following priorities:

   a. Landowners who provide written objective verification (self-serving statement will not be sufficient) that revenues have been derived from their tidelands on Willapa Bay during the prior calendar year will be classified as Priority I landowners. In addition the landowner must certify that revenues have been derived from the same tidelands that they are intending to manage for Spartina.

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b. Landowners who have not derived revenue from their tidelands on Willapa Bay during the prior calendar year will be classified as Priority II landowners.

c. Priority I landowners will be guaranteed an acreage allotment of up to 10 acres. However, if the overall acreage allotment is not sufficient, the acreage allotment for each Priority I landowner will be prorated downward. If the Priority I landowners do not exhaust the total acreage available based on a maximum of 10 acres per Priority I landowner, the remaining acreage will be made available to Priority II landowners. Each Priority II landowners will be allowed to receive an allotment of up to 10 acres. If there is not sufficient acreage available, the remaining acreage will be prorated downward among Priority II landowners. If the total amount of acreage available has not been exhausted, any acreage remaining shall be allocated among Priority I landowners who desire additional acres on a pro rata basis.

2. After signing up for the acreage, the private landowner will obtain the appropriate WQM application from the PCWB. During 1995, Ecology shall have two WQM application forms, FORM A and FORM B, attached hereto as Exhibits D and E. FORM A will be for non-licensed private landowners hiring a primary applicator. FORM B will be for the licensed private landowner applying to his or her own lands.

3. The application will be submitted to the PCWB for review, which shall take no more than five days. A copy of FORM A shall be sent to the applicator hired by the private landowner to be incorporated into that applicator's FORM B. FORM B shall be sent to Ecology to begin processing for a WQM.

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4. After receipt of the WQM application from PCWB, Ecology will process WQM applications according to the following, taking no more than 30 days:

a. Copies of the WQM application shall be sent to interested parties including the Appellants for a 21-day review.

b. Ecology shall issue a determination under SEPA requirements.

c. Ecology shall issue or deny the WQM, as appropriate, and send copies to interested parties, including the Appellants.

5. For 1995, PCWB and Ecology will use the following criteria to screen Form A and Form B to determine which control methods are most appropriate for the subject property, thereby implementing IWM for the management of Spartina:

- Nature of the substrate (Muddy, Sand or Firm);
- Age and type of Spartina (Seedlings, Clones and Meadows);
- Size of clones and meadows (number of acres), including consideration of prevention of seedlings and prevention of seed production;
- What impacts may be caused accessing the Spartina plot to be controlled, e.g. number of trips onto the mudflats, the methods used to access the plot, or accessibility of the site;
- Other mitigating circumstances, e.g. displaced habitat, presence of eelgrass, or seed transfer.

The PCWB and Ecology also will balance environmental, biological, and economic costs, with the recognition that chemical management is the least preferred alternative as stated in Section IV.

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F. Private Landowners Outside Of Priority Areas Seeking To Chemically Manage Spartina.

During 1995, private landowners who apply to use chemical control methods and who fall outside of the priority areas may themselves apply or may have an applicator apply to Ecology for a WQM pursuant to V.E.2. During 1995, Ecology may only issue a WQM to an applicator or a private landowner if Spartina threatens adjacent oyster beds or ecologically sensitive areas such as rivers, eelgrass, or bird habitat identified by USFW or Washington State Fish and Wildlife. Backpack spraying or wiping of clones using the six-foot fire lane approach shall be the only chemical control method allowed in these areas. The intent of the fire lane approach is to prevent Spartina from encroaching on the ecologically sensitive area. The six-foot fire lane approach is defined as spraying or wiping clones from the active, spreading edge of Spartina no more than six-feet inward. The PCWB and Ecology shall use the criteria in Section V.E.5. to review WQM applications under this section.

During 1995, the PCWB shall allow applicators or private landowners to use chemical control methods on no more than 5 net acres of Spartina clones within non-priority areas. The parties agree that the total volume of RODEO used in chemical management of net acres shall not exceed 20 gallons. Any WQM issued pursuant to this section shall require monitoring as stated in Exhibit C. Any WQM issued under this section shall be appealable.

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1 **VI. OTHER TERMS.**

2 G. Dispute Resolution And Enforcement.

3 This Agreement is enforceable by any party to the
4 Agreement. Prior to raising by motion, complaint or other legal
5 proceeding any alleged violation of this Agreement, or any other
6 alleged failure to perform any obligation imposed hereby, the
7 aggrieved party shall first consult with the other parties
8 consistent with the procedure outlined in Rule 26(i) of the
9 Washington Superior Court Civil Rules, and, in the event the
10 matter cannot be resolved, confirm such consultation in written
11 correspondence to the alleged breaching party. If no agreement
12 can be reached within 10 days from receipt of the letter, the
13 parties will then submit the dispute to Washington Arbitrator
14 and Mediation Services or other agreed upon mediator for
15 mediation first, and if that does not resolve the issue, then
16 the parties may submit the dispute to binding arbitration or
17 pursue any other remedies available by law. In an emergency,
18 settling parties may bypass this alternative dispute resolution
19 agreement and apply to a court or an appropriate administrative
20 agency for injunctive relief. Parties shall not be relieved of
21 the duty to participate in conferences or mediation upon
22 resolution of the emergency.

23 H. Authority To Sign.

24 Each of the parties signing this Agreement is legally
25 authorized to enter into the terms and conditions of this
26

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Agreement and Stipulation and Order of Dismissal of proceedings, and is legally authorized to bind such parties hereto.

I. Choice Of Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

J. Modification.

This Agreement may be modified only by the express written agreement of all parties.

K. Counterparts and Effective Date.

This Agreement may be executed in counterparts and each executed counterpart shall have the same force and effect as an original instrument upon the effective date of the Agreement. This Agreement shall become effective as to all parties upon the date of signature of the party last in time to sign.

DATED this 16th day of January, 1995.

JENNIFER DOLD, # 33922 Attorney for AD HOC COALITION FOR WILLAPA BAY	DAVID E. ORTMAN Representative FRIENDS OF THE EARTH
CRAIG JACOBSON SHOALWATER BAY INDIAN TRIBE	DAVID J. BURKE, # Attorney for PACIFIC COUNTY and PACIFIC COUNTY WEED BOARD
REBECCA A. VANDERGRIFF, #16877 Assistant Attorney General DEPTARTMENT OF ECOLOGY	WILLIAM H. BAKOUS, Supervisor Water Quality Program, SWRO

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DATED this 15 day of [illegible], 1995.

JENNIFER DOLD, # Attorney for AD HOC COALITION FOR WILLAPA BAY	DAVID E. ORTMAN Representative FRIENDS OF THE EARTH
CRAIG JACOBSON SHOALWATER BAY INDIAN TRIBE	DAVID J. BURKE, # Attorney for PACIFIC COUNTY and PACIFIC COUNTY WEED BOARD
REBECCA A. VANDERGRIFF, #16877 Assistant Attorney General DEPTARTMENT OF ECOLOGY	WILLIAM H. BAKOUS, Supervisor Water Quality Program, SWRO

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DATED this ___ day of _____, 19___.

JENNIFER DOLD, # Attorney for AD HOC COALITION FOR WILLAPA BAY	DAVID E. ORTMAN Representative FRIENDS OF THE EARTH
CRAIG JACOBSON SHOALWATER BAY INDIAN TRIBE	DAVID J. BURKE, # Attorney for PACIFIC COUNTY and PACIFIC COUNTY WEED BOARD
REBECCA A. VANDERGRIFF, #16877 Assistant Attorney General DEPTARTMENT OF ECOLOGY	WILLIAM H. BAKOUS, Supervisor Water Quality Program, SWRO

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DATED this ___ day of _____, 19___.

JENNIFER DOLD, # Attorney for AD HOC COALITION FOR WILLAPA BAY	DAVID E. ORTMAN Representative FRIENDS OF THE EARTH
CRAIG JACOBSON SHOALWATER BAY INDIAN TRIBE	David J Burke DAVID J. BURKE, #16163 Attorney for PACIFIC COUNTY and PACIFIC COUNTY WEED BOARD
Rebecca A Vandergriff REBECCA A. VANDERGRIFF, #16877 Assistant Attorney General DEPTARTMENT OF ECOLOGY	William H Bakous WILLIAM H. BAKOUS, Supervisor Water Quality Program, SWRO

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ORDER

This matter having come before the Shorelines and Pollution Control Hearings Boards upon the stipulation of the parties for settlement and dismissal of this appeal, and the Boards having reviewed the Stipulation and the records and files herein, and having determined that the parties have agreed to a full and complete settlement of this appeal, now, therefore,

IT IS ORDERED that Shoreline Permit No. 93-0090 shall be amended to reflect the conditions set forth in the foregoing stipulation and;

IT IS FURTHER ORDERED that the above-captioned matter, SHB Nos. 94-33, 94-37, and 94-38; and PCHB Nos. 94-238 and 94-239, shall be and is hereby DISMISSED subject to the satisfaction of the terms and conditions set forth in the foregoing Stipulation and with each party to bear its own costs.

DATED this 13th day of February, 1995.

SHORELINES HEARINGS BOARD

JAMES A. TUPPER, JR., Presiding

ROBERT V. JENSEN, Chair

RICHARD C. KELLEY, Member

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SHOALWATER BAY INDIAN TRIBE, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-38
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This Stipulated Order of Dismissal is made and entered into by and between the appellants FRIENDS OF THE EARTH (FOE), represented by David E. Ortman; AD HOC COALITION (AD HOC), represented by Michael W. Gendler and Jennifer A. Dold; and SHOALWATER BAY INDIAN TRIBE (TRIBE), represented by Craig A. Jacobson, and the respondents STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES (DNR) and DEPARTMENT OF FISH & WILDLIFE (DFW), represented by Michael S. Grossmann and Jay D. Geck; the DEPARTMENT OF ECOLOGY (ECOLOGY), represented by Rebecca A. Vandergriff; and PACIFIC COUNTY and the PACIFIC COUNTY WEED BOARD, represented by David Burke.

STIPULATION

The parties to this stipulation agree as follows:

1. DNR and DFW have executed a Settlement Agreement with the Appellants and Appellant-Intervenors (hereinafter the "Settling Parties"). The Settlement Agreement is attached hereto as Exhibit A.

2. The Settling Parties agree that the terms of the settlement agreement establish binding obligations for the Settling Parties, require Pacific County to amend the terms of the shoreline permits for DNR (No. 94-0001) and DFW (No. 94-0005), and require the Department of Ecology to amend the orders establishing short term water quality modifications for DNR (No. DE 94 WQ-S288) and DFW (No. DE 94 WQ-S246).

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3. Based upon the Settling Parties' agreement to fulfill the terms and conditions of the Settlement Agreement, the Settling Parties agree that the appeals filed by the Ad Hoc Coalition for Willapa Bay, the Friends of the Earth and the Shoalwater Bay Indian Tribe with respect to the permits issued to DNR and DFW shall be dismissed.

4. The parties to the above captioned matter have not been able to settle the appeals that have been filed with respect to the shoreline permit issued to the Pacific County Weed Board (No. 93-0090). The parties agree that settlement negotiations attempting to settle this appeal should continue and that the Hearing date for this appeal should be struck and rescheduled for December 12 - 16, 1994 as a primary setting with a back up setting of January 9 - 13, 1995. The parties agree that DNR, DFW and ECOLOGY shall remain as intervening parties in this action, but that such participation shall have no effect upon the Settlement Agreement or upon the dismissal of the appeals referenced in paragraph 3.

DATED this 27th day of December, 1994.

JENNIFER DOLD, #23822
Attorney for AD HOC
COALITION FOR WILLAPA BAY

DAVID E. ORTMAN
Representative
FRIENDS OF THE EARTH

CRAIG JACOBSON
SHOALWATER BAY INDIAN TRIBE

MICHAEL S. GROSSMANN, #15293
Assistant Attorney General
DEPT. OF NATURAL RESOURCES

ATTORNEY GENERAL OF WASHINGTON
1125 Washington St. SE
PO Box 40100
Olympia, WA 98504-0100
(206) 753-6200

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DATED this ___ day of November, 1994.

Jennifer A Dold

JENNIFER DOLD, # 23822
Attorney for AD HOC
COALITION FOR WILLAPA BAY

DAVID E. ORTMAN
Representative
FRIENDS OF THE EARTH

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DATED this ___ day of November, 1994.

JENNIFER DOLD, # 23822 Attorney for AD HOC COALITION FOR WILLAPA BAY	DAVID E. ORTMAN Representative FRIENDS OF THE EARTH
CRAIG JACOBSON SHOALWATER BAY INDIAN TRIBE	MICHAEL S. GROSSMANN, # 15293 Assistant Attorney General DEPT. OF NATURAL RESOURCES

ATTORNEY GENERAL OF WASHINGTON
1125 Washington St SE
PO Box 40100
Olympia WA 98504-0100
(206) 753-6200

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DATED this 8th day of ~~November~~ December, 1994

JENNIFER DOLD, # 23822
Attorney for AD HOC
COALITION FOR WILLAPA BAY

~~DAVID~~ E. ORTMAN
Representative
FRIENDS OF THE EARTH

CRAIG JACOBSON
SHOALWATER BAY INDIAN TRIBE

MICHAEL S. GROSSMANN, # 15293
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REBECCA A. VANDERGRIFF, #16877
Assistant Attorney General
DEPT. OF ECOLOGY

JAY D. GECK, #17916
Assistant Attorney General
DEPT. OF FISH & WILDLIFE

DAVID J. BURKE, #
Attorney for
PACIFIC COUNTY and
PACIFIC COUNTY WEED BOARD

WILLIAM BACKOUS
Supervisor, Water Quality Program
Department of Ecology, SWRO

ORDER

Based upon the foregoing Stipulation and Agreement, it is hereby ORDERED that:

1. The shoreline permits issued by Pacific County to DNR (No. 94-0001) and DFW (No. 94-0005) shall be modified in accordance with the provisions of Exhibit A.

2. The ECOLOGY short term water quality modifications orders for DNR (No. DE 94 WQ-S288) and DFW (No. DE 94 WQ-S246) shall be modified in accordance with the provisions of Exhibit A.

3. The appeals of the shoreline permits and water quality modification orders referenced in paragraph 2 that were filed by the Ad Hoc Coalition for Willapa Bay, the Friends of the Earth and the Shoalwater Bay Indian Tribe are dismissed.

4. The hearing date for the remaining appeals of the Pacific County Weed Board's shoreline permit (No. 93-0090) is struck and rescheduled for January 9 - 13, 1995.

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REBECCA A. VANDERGRIFF, # 16877
Assistant Attorney General
DEPT. OF ECOLOGY

JAY D. GECK, # 17916
Assistant Attorney General
DEPT. OF FISH & WILDLIFE

David J. Burke

DAVID J. BURKE, # 16163
Attorney for
PACIFIC COUNTY and
PACIFIC COUNTY WEED BOARD

William H. Backus

WILLIAM BACKUS
Supervisor, Water Quality Program
Department of Ecology, SWRO

ORDER

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3. The appeals of the shoreline permits and water quality modification orders referenced in paragraph 2 that were filed by the Ad Hoc Coalition for Willapa Bay, the Friends of the Earth and the Shoalwater Bay Indian Tribe are dismissed.

~~4. The hearing date for the remaining appeals of the Pacific County Weed Board's shoreline permit (No. 93-0090) is struck and rescheduled for January 9 - 13, 1995.~~

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1125 Washington St SE
PO Box 40100
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(206) 753 6200

5. DNR, DFW ~~and ECOLOGY~~ are granted leave to intervene in the remaining appeal.

SO ORDERED this 24th day of January, 1995.

SHORELINES HEARINGS BOARD

POLLUTION CONTROL HEARINGS BOARD

JAMES A. TUPPER, JR., Presiding

ROBERT V. JENSEN, Chairman PCHB

RICHARD C. KELLEY, member

BOBBI KREBBS-McMULLEN, member

JIM LYNCH, member

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BEFORE THE SHORELINES HEARINGS BOARD AND
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

FRIENDS OF THE EARTH, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-33 STIPULATED ORDER OF DISMISSAL
AD HOC COALITION FOR WILLAPA BAY, Appellant, v. PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DEPT. OF NATURAL RESOURCES; and DEPT. OF FISH & WILDLIFE, Respondents, THE NATURE CONSERVANCY, Petitioner for Intervention.	SHB NO. 94-37

ORIGINAL

ATTORNEY GENERAL OF WASHINGTON
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PO Box 40100
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BEFORE THE SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

FRIENDS OF THE EARTH, **Appellant,** **v.** **PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DNR AQUATIC LANDS; and DEPT. OF FISH & WILDLIFE;** **Respondents.**	)	**SHB NO. 94-33**
AD HOC COALITION FOR WILLAPA BAY, **Appellant,** **v.** **PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DNR AQUATIC LANDS; and DEPT. OF FISH & WILDLIFE;** **Respondents.**	)	**SHB NO. 94-37**
SHOALWATER BAY INDIAN TRIBE, **Appellant,** **v.** **PACIFIC COUNTY; WILLAPA NWR; PACIFIC COUNTY WEED BOARD; DNR AQUATIC LANDS; and DEPT. OF FISH & WILDLIFE;** **Respondents.**	)	**SHB NO. 94-38** **ORDER DENYING SUMMARY JUDGMENT AND MOTION REGARDING APPLICABILITY OF STAY**

This matter comes before the Shorelines Hearings Board ("Board") on motions for summary judgment brought by respondents. The Nature Conservancy, the State of Washington Department of Natural Resources and the State of Washington Department of Fish and Wildlife The Nature Conservancy also requests a determination as to whether the stay provisions of the Shoreline Management Act apply to the activities authorized under the shoreline permits on appeal The Board in this matter is comprised of James A Tupper, Jr , presiding, Robert V Jensen, Richard C Kelley, Bobbi Krebs-McMullen, Traci Goodwin and Jim Lynch

Oral argument on the motions was heard on October 28, 1994 The Nature Conservancy appeared by and through its attorney James R Rasband The Department of Natural Resources appeared by and through assistant attorney general Michael S Grossman The Friends of the Earth appeared by and through David E Ortman The Ad Hoc Coalition for Willapa appeared by and through its attorneys Michael W Gendler and Jennifer Dold Pacific County and the Pacific County Weed Board appeared by and through their attorney David J Burke

Court reporting services were provided by Kim Otis of Gene Barker and Associates of Olympia, Washington

The Board reviewed and considered the following pleadings and documents filed in support and in opposition to the motions for summary judgment

1 The Nature Conservancy's Motion for Summary Judgment

2 The Nature Conservancy's Memorandum in Support of Motion for Summary Judgment

3 Declaration of James R Rasband in Support of The Nature Conservancy's Motion for Summary Judgment

4 Respondents Departments of Natural Resources and Fish and Wildlife's Motion for Summary Judgment

5 Affidavit of Michael S Grossman in Support of Motion for Summary Judgment

6 Statement of Pacific County and Pacific County Weed Board in Support of the Motions Filed by The Nature Conservancy and attached declaration

7 Friends of the Earth's Memorandum in Opposition of Motion for Summary Judgment

8 Memorandum of Appellant Ad Hoc Coalition for Willapa Bay in Opposition to Motions for Summary Judgment

9 Memorandum in Opposition of Motion for Summary Judgment filed by the Shoalwater Bay Indian Tribe

10 The Nature Conservancy's Reply in Support of Summary Judgment

11 State of Washington Department of Natural Resources and Department of Fish and Wildlife's Reply Memorandum in Support of Their Motion for Summary Judgment

The Board reviewed and considered the follow pleadings and documents in support and in opposition to the motion regarding the applicability of the Shoreline Management Act stay provision

1 The Nature Conservancy Motion and Memorandum in Support of Motion for Declaration Regarding Inapplicability of "Automatic Stay "

2 Federal Fish and Wildlife Service Response to The Nature Conservancy Motions for Summary Judgment and Stay Declaration

3 Memorandum of Appellant Ad Hoc Coalition for Willapa Bay in Opposition to Nature Conservancy Motion Re Automatic Stay

4 Shoalwater Bay Indian Tribe Memorandum in Support of Applicability of Stay

5 Friends of the Earth's Memorandum in Opposition of Motion for Declaration Regarding Inapplicability of "Automatic Stay "

6 The Nature Conservancy's Reply in Support of Motion for Declaration Regarding Inapplicability of Automatic Stay

Based on review of the foregoing pleadings, consideration of oral argument by counsel for the parties, and being otherwise fully apprised in the circumstances of the motions for summary judgment, the Board enters the following

FINDINGS OF FACT

I

On March 3, 1994 Pacific County issued Shoreline Substantial Development Permits to DNR and DF&W The Pacific County Board of Commissioners upheld the issuance of the permits on April 26, 1994 The permits authorize the applicants to undertake measures to control and eliminate spartina grass from tidelands within Willapa Bay In pertinent part, the permits provide

> To control Spartina Alterniflora by implementing the integrated weed management plan described in the Noxious Emergent Plants Management EIS dated November 1993 and as further specified in the "Spartina Management Program, Integrated Weed Management for State-Owned Aquatic Lands Managed by the Department of Natural Resources "

The Spartina Management Program dated February 9, 1994, is attached and incorporated in the permits issued to DNR and DF&W The document contains a management program applicable to all DNR managed tidelands affected by spartina as well as a regional plan for Willapa Bay Both the management program and regional plan are styled as "proposed " There is no indication that final plans have been adopted

II

Spartina alterniflora or smooth cord grass is one of three non-native and invasive spartina species present wetlands and estuaries along the Washington coast, Puget Sound and San Juan Islands Spartina alterniflora (hereafter "spartina"), is characterized by distinct circular growth patterns, referred to as clones It grows at a much lower tidal elevation than native Washington salt marsh plants Lower tidal elevations in

Washington generally appear to be barren but are in fact colonized with zooplankton, diatoms, algae, invertebrate communities and eel grasses As spartina extends its range into lower tidal areas it accumulates sediments and gradually fills in a marsh changing it to a habitat more like the natural range of spartina in the Gulf and south Atlantic coasts This transformation renders the water shallower, thus raising the level of the marsh, raises the temperature of the water and thereby destroys natural habitat The warmer and shallower water in the summer and El Niño effects in the winter during recent years has probably enhanced the ability of spartina to produce viable seed Spartina has been designated by the State Noxious Weed Board as a Class B noxious weed in Pacific County posing a serious threat to the region By virtue of this designation, landowners must contain and control spartina when notified by the local weed board

III

Spartina was introduced to Willapa Bay in the late 1800's and early 1900's as packing for Oyster seedlings brought from the east coast From this introduction, and its introduction to Padilla Bay in the 1960's, spartina has spread from Willapa Bay into the Grays Harbor and Copalis estuaries, and to the northeastern shores of Jefferson County and Sequim Bay The most extensive colony of spartina in the state is in Willapa Bay The threat of damage to native marsh and tidal communities and to the shellfish industry in Pacific County is greater in Willapa Bay than in any other part of the spartina range in Washington At risk are the Willapa National Wildlife Refuge (managed by the United States Fish and Wildlife Service), Leadbetter State Park, Shoalwater Bay and thousands of acres of commercial oyster beds

IV

The proposed Willapa Bay regional plan for spartina management adopts the 1993 EIS and the preferred alternative in that document for Integrated Weed Management ("IWM") The IWM is described as a problem-solving approach that calls for analyzing the biology of the weedy species, evaluating its potential for environmental damage, then

determining which control method will be most effective and appropriate for a given geographic location The proposed plan for Willapa Bay divides the bay into 37 geographic management units Of these units the proposed plan identifies eight units for priority action in the next three years Control methods proposed for these units vary but include hand pulling and burning seedlings, tractor and walk-behind mowers, possible Rodeo® wiping applications, and trial helicopter application of full label rate Rodeo® at some units As noted, the Willapa Bay regional plan does appear to have been finalized The plan does not provide specific information as to what combination of control measures will be applied to each of the priority units The proposed project for Unit 27 simply states that "[c]ontrol and containment need to continue here," and "[c]lone control with walk-behind mowers and/or small tractors will also be appropriate " Likewise, the proposed project for Unit 19 simply states, "Because of its proximity to the Long Island channel rapid expansion of the meadow, and viable seed production clones in this Unit needs to be controlled to stop seed set "

It is also unclear if the shoreline permits on appeal cover only the priority actions identified in the plan, or the conceptual approach detailed in the plan for developing unit specific strategies in the future It would appear that the permit would allow any combination of the selected management methods - hand pulling, weeding torch, mowers and Rodeo® - to be applied to any management unit within the Bay at the discretion of the applicants The DNR management plan sets a framework for addressing all three species of spartina present throughout the region The proposed plan for Willapa Bay is the first such regional plan to have been drafted Similar plans are being developed for Puget Sound, the San Juan Islands Hood Canal the Strait of Juan de Fuca, Grays Harbor and other Olympic coast estuaries Future plans are intended to adopt the same approach of the proposed Willapa Bay plan by identifying priorities, management methods and then site or unit specific actions

V

Rodeo® is a trade name for glyphosate, the only herbicide labeled for use estuaries in Washington Preliminary studies of the effectiveness of this herbicide in Willapa Bay described in the regional plan and EIS indicate that it can be effective but is limited by its rapid breakdown and slow absorption time It is also inactivated by sediments and water containing iron In a 1993 study reported in the EIS, Rodeo® was not found to be effective applied by means of aerial spraying at a concentration rate close to the lowest recommended application rate The product was, however, found effective by ground application at the same concentrations Several of the priority projects identified in the regional plan, such as Unit 27 and Unit 28, contemplate aerial spraying at the maximum label concentration The studies performed for the EIS did not, however, evaluate the impact of using Rodeo® at maximum strength or the long-term effect on some of the test organisms These studies were also limited to evaluation of organism abundance and do not provide any information on non-lethal effects of using glyphosate The EIS also identifies information needs for use of herbicides to control weeds Listed as a major data need is the potential toxic effects of using the maximum aerial application rate in Washington marine environments Also listed as major data needs are information related to the efficacy and best application methods for glyphosate and quantification of glyphosate degradation and persistence in both freshwater and salt marsh sediments In addition to this information, the EIS lists the following other data needs

- Confirmation of the hypothesis that glyphosate application will not cause growth inhibition of organisms at the base of the food web or other adverse acute or chronic effects

- Potential effects of glyphosate applications on surface water nutrient availability and marine mircolayer

- Additional lethal toxicity information for bird groups that use wetland areas

- Additional lethal and non-lethal toxicity information to more accurately assess the potential effects of glyphosate on salmonids and other fishes

- Additional information to assess the potential cancer, fetal, and reproductive effects of pure glyphosate on salmonids and other fishes

- Additional information on the potential cancer, fetal, and reproductive effects of glyphosate and Rodeo®/nonionic surfactant mixtures to ecologically and commercially important invertebrates such as amphipods, Dungeness crab, mussels, clams, and oysters

- Acute or chronic effects of glyphosate on amphibians and reptiles

- Environmental fate and effects of surfactants

The Spartina management program incorporates the 1993 EIS In doing so, the plan states Based on the previous studies, and the field work done in 1992 for the EIS, no significant long terms impacts from the use of this chemical are expected " As a program strategy the Spartina management program states that DNR will issue a SEPA determination of significance for each IWM and then adopt the EIS with additional site specific information and SEPA checklists where appropriate This was the procedure applied to the Willapa Bay regional plan It is unclear from the record before the Board, however, whether any additional studies or site specific information were developed to support the proposed plan

VI

The appeals in this case focus on authorization under the permits to use glyphosate The Friends of the Earth has also challenged the procedural propriety of the permits It alleges that Pacific County did not fully consider all public comments by approving the permits before the time period for public comment had expired While this issue was excluded from the Prehearing Order, Friends of the Earth has separately requested that the Board amend the order to include this issue and moved for summary judgment and an order remanding the permits to Pacific County for reconsideration Aside from any procedural concerns, the issues raised in the Prehearing Order relate to

the use of an herbicide to control spartina That is, the appellants do not seek reversal, on substantive grounds, of the permit authorization for non-chemical control of spartina outlined in the regional plan

VII

On March 25, 1994 DNR and DF&W received Hydraulic Permit Approvals from DF&W for the mechanical controls of spartina under the proposed regional plan On September 9, 1994, the Washington Department of Ecology issued DNR and DF&W orders for the temporary modification of water quality standards for the purpose of applying Rodeo® and the surfactant LI-700® The orders limit the state agencies to one application or treatment per unit during the growing season from April 1, 1995, through September 9, 1995, when tides are expected to be low enough to allow the plant's leaves to be dry for at least six hours The orders also require that signs be posted in any area normally accessible from the shore to people using the access areas If the areas are normally accessible from the water, signs must be placed facing the water every 100 feet The orders require that the signs contain the following information

> Caution
>
> Glyphosate (Rodeo) will be applied under permit to these waters on _____ to control aquatic vegetation
>
> No water use restrictions are in place
>
> Treated water may be used for Swimming, Fish Consumption, and Irrigation immediately after treatment

Friends of the Earth, the Ad Hoc Coalition and the Shoalwater Bay Indians (as intervenor) have appealed the temporary modification of water quality standard permits to the Pollution Control Hearings Board By amended prehearing order these appeals have been consolidated for a joint final hearing before both the Shorelines and Pollution Control Hearings Boards

VIII

Any conclusion of law deemed to be a finding of fact is hereby adopted as such

Based on the foregoing findings of fact, the Board enters the following

CONCLUSIONS OF LAW

I

The Board has jurisdiction over this matter pursuant to RCW 90 58 180

II

This matter comes before the Board on a motion for summary judgment Summary judgment is appropriate under the rules of this Board and CR 56 where there are no genuine issues of material fact and a party is entitled to judgment as a matter of law We conclude that there are genuine issues of material fact and that the motions for summary judgment should be denied

III

The issue before the Board is whether the actions authorized under the shoreline permits on appeal, being those activities outlined in the proposed Willapa Bay Regional Plan, constitute "development" within the meaning of the Shoreline Management Act ("SMA") or the Pacific County Shoreline Master Program ("PCSMP") If the activities are not development, then no shoreline permit is required and these appeals should be dismissed RCW 90 58 140 The SMA definition of development provides,

> (d) "Development" means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel, or minerals, bulkheading, driving of piling, placing of obstructions, or any project of a permanent or temporary nature which interferes with the normal public use on the surface of waters overlying lands subject to this chapter at any state of water level
>
> (e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds $2,500, for any development which materially interferes with the normal public use of the water or shorelines of the state

IV

Appellants have established a genuine issue of material fact as to whether the actions proposed under the shoreline permits will interfere with normal public use of the shorelines There are two aspects to this issue Appellants argue that interference with use will occur during both mechanical and chemical weed control activities During those times the public will not have access to areas of the control work Respondents reply with some merit that this postulation leads to the absurd result of requiring a shoreline permit any time a public or private party seeks to maintain a shoreline area with public access Normal public use of shorelines must encompass periods of maintenance activities The definition of development does not contemplate that permits would be required for such activities as cleanup, lawn mowing, routine dock maintenance or the like Respondents also point out that the glyphosate spraying, as permitted by Ecology, will not limit public use immediately after spraying It is also significant that the Ecology orders limit application of glyphosate to periods of extended low tide when the dominate public use by boating would not be an issue The Board is nonetheless presented with a permit that authorizes activities covering an large geographic area over an extended period of time As the DNR regional plan states, the effort to control spartina will take decades The cumulative impact of this ongoing effort raises an issue of fact as to interference with normal public use within the definition of development This Board has previously held that a proposed activity constitutes development where public use will be highly disrupted during the proposed activity English Bay Enterprises, Ltd. v Island County, SHB No 185 at 11 (1975)

V

The second aspect of the proposed activities with respect to normal public use is whether the use of glyphosate to control spartina would result in long term significant adverse impacts to the environment If the Board was presented with a proposed control

program that by design intended to sacrifice certain elements of the Willapa Bay environment. e g , benthic communities. invertebrates or eel grass habitat. the action would constitute an interference with normal public use of the bay This follows since the public use of Willapa Bay is intricately linked to the enjoyment of the natural resources afforded by the existing environment If the actions to control spartina destroy natural habitat. there would be a degradation of normal public use The 1993 EIS establishes a genuine issue of material fact in this regard The regional plan proposes full label strength aerial applications of glyphosate on Units 27 and 28 that were not studied in the development of the EIS There is, moreover. no restriction in the shoreline permits or the Ecology orders that would prevent the state agencies from adopting the same control method for all 37 management units in Willapa Bay The EIS. however, raises concerns about the impact of full label strength aerial spraying and set forth an extensive list of additional studies that would be necessary to support this type of application The respondents have not established the absence of a genuine issue of material fact as to the ultimate long term impact of this type of glyphosate spraying on Willapa Bay There is thus an issue of fact as to whether use of glyphosate will result in a significant lowering of recreational and aesthetic quality on which normal public use of Willapa Bay is dependent English Bay Enterprises, Ltd v Island County, id.

VI

The Board concludes that there are genuine issues of material fact as to whether the activities authorized under the permits constitute interference with normal public use within the meaning of RCW 90 58 030 Having reached this conclusion. the Board has not addressed the merits of appellants' additional arguments as to why the proposed activities constitute development

VII

The Nature Conservancy separately requests a determination that the stay provisions of RCW 90 58 140(5) do not apply Having reviewed the pleadings and

arguments in support and in opposition to this request together with argument by counsel, the Board rules that the application of Rodeo® as provided in the shoreline permits is subject to the stay provisions of the SMA The word "construction" in RCW 90 58 140(5) may not be narrowly construed to defeat the intent of the SMA stay provision The intent is to preserve the status quo pending review The appellants have raised genuine concerns regarding use of glyphosate to control spartina They are entitled to present their case as to the adverse effects of glyphosate before the use of the product is implemented It appears however, that the appellants do not take issue with any of the mechanical management methods identified in the Willapa Bay Regional Plan There is no reason for those activities to be subject to the stay It shall be accordingly ordered that the stay will remain in effect, but only as to the use of glyphosate

VIII

Any finding of fact deemed to be a conclusion of law is hereby adopted as such

Based on the foregoing findings of fact and conclusions of law, the Board enters the following

ORDER

IT IS HEREBY ORDERED that the motions for summary judgment are DENIED, and

IT IS FURTHER ORDERED that the use of Rodeo® as authorized under shoreline permits granted to the Department of Natural Resources and Department of Fish and Wildlife is subject to the stay provisions of RCW 90 58 140(5) The mechanical methods for control identified in the Willapa Bay Regional Plan shall not be subject to the stay

DONE this 4th day of November, 1994

SHORELINES HEARINGS BOARD

JAMES A TUPPER, JR., Presiding

ROBERT V JENSEN, Chairman

RICHARD C KELLEY, Member

BOBBI KREBS MCMULLEN, Member

TRACI GOODWIN, Member

JIM LYNCH, Member

S94-33O