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6 **POLLUTION CONTROL HEARINGS BOARD**
7 **STATE OF WASHINGTON**

8 THE MILESTONE COMPANIES,
9 LLC

10 Appellant,

11 v.

12 STATE OF WASHINGTON,
13 DEPARTMENT OF ECOLOGY,

14 Respondent.

PCHB No. 22-017

SETTLEMENT AGREEMENT

15 Respondent, State of Washington Department of Ecology (Ecology), represented by
16 Robert W. Ferguson, Attorney General, and Dylan Stonecipher, Assistant Attorney General,
17 and Appellant, The Milestone Companies, LLC (Milestone), represented by Douglas Steding,
18 submit this Settlement Agreement (Agreement) to the Pollution Control Hearings Board
19 (Board) as a full and final settlement of the above-referenced appeal, and request that the
20 Board dismiss the appeal with prejudice.

21 **I. BACKGROUND**

- 22 1. On January 24, 2022, Ecology issued Penalty No. 20884 (Penalty) in the
23 amount of \$72,000 to Milestone.
- 24 2. On February 22, 2022, Milestone appealed Penalty No. 20884 to the Board.
- 25 3. Ecology and Milestone have agreed to resolve the appeal of Penalty No. 20884
26 through the settlement outlined below.

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1 **2. Supplemental Environmental Project (SEP)**

2 In order to satisfy the remainder of the penalty, Milestone shall contribute \$47,600 to
3 fund a supplemental environmental project that will benefit water quality in the greater
4 Olympia/Lacey area, including waters of Puget Sound. Milestone shall submit a project
5 proposal to Ecology for review and approval within one year of the date the Board dismisses
6 this appeal. Milestone shall send payment by U.S. Mail or Federal Express in the amount of
7 \$47,600 to the project proponent(s) of the approved project(s) within 30 calendar days of
8 Ecology's approval and provide a copy of the check(s) to Ecology.

9 If Milestone identifies and Ecology approves a SEP prior to one year from the date the
10 Board dismisses the appeal, Milestone may pay the \$47,600 in installments to implement the
11 SEP, provided that Milestone send Ecology proof of such payments. The total amount due
12 shall be due for the SEP by one year from the date the Board dismisses this appeal.

13 If Milestone fails to complete the payment requirements of this provision within one
14 year of the Board's dismissal of this appeal, the balance of the \$72,000 penalty not already
15 paid to Ecology will become immediately due and payable to Ecology without further right of
16 administrative or judicial review, except as provided in Paragraph C of this Agreement.

17 **3. Supplemental Training of Milestone Employees**

18 In addition to the cash payment and SEP, Milestone agrees to enroll one key employee
19 in supplemental stormwater compliance training courses approved by Ecology. Courses must
20 be completed by October 31, 2022, and certification of completion must be provided to
21 Ecology on or before November 1, 2022.

22 **C. REMEDIES**

23 In the event that Milestone violates the terms of this Agreement, Ecology may pursue
24 all remedies available by law. By entering into this Agreement, Milestone shall have waived its
25 right of administrative or judicial review on the underlying merits of the Penalty. However,
26 Milestone does not waive the right to contest whether violations of this Agreement have

1 | occurred. Ecology shall be entitled to recover its costs, including attorneys' fees, in any action
2 | brought to enforce this Agreement in which Ecology is a prevailing party.

3 | **D. VENUE**

4 | Milestone agrees that the venue for any judicial action to enforce this Agreement and/or
5 | to collect the Penalty, or any portion thereof, shall be in Thurston County Superior Court.

6 | **E. SERVICE**

7 | In the event Ecology pursues any remedy in Thurston County Superior Court,
8 | Milestone agrees to accept service of the summons and complaint by United States mail in lieu
9 | of personal service, at Ecology's option. Service by mail shall be deemed complete upon the
10 | third day following the day the summons and complaint are placed in the mail. The current
11 | address that Ecology has for Milestone is: 8512 Canyon Road East, Suite 101, Puyallup, WA
12 | 98731-6330. Appellant agrees to accept service at this address unless Milestone informs
13 | Ecology in writing of any changes to Milestone's address.

14 | **F. PRESS RELEASES AND OTHER DOCUMENTS**

15 | Any document prepared by Milestone related to this settlement, such as a press release,
16 | shall be identified as resulting from a settlement with Ecology. In addition, any sum paid to a
17 | third party, not a party to this Agreement, as a result of this Agreement, shall be identified as
18 | resulting from a settlement with Ecology in any public statement.

19 | **G. WAIVER OF APPEAL RIGHTS**

20 | Milestone understands that it has the right to contest Penalty No. 20884 by presenting
21 | evidence at a Board hearing. Milestone voluntarily waives its right to a hearing upon signature
22 | and acceptance of this Agreement by representatives for Milestone and Ecology.

23 | **H. RELEASE OF LIABILITY**

24 | Milestone and its heirs, assigns, or other successors in interest, agree to release and
25 | discharge the Department of Ecology and its officers, agents, employees, agencies, and
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1 departments from any damages and causes of action of any nature arising out of the incidents
2 that gave rise to this appeal.

3 **I. DISMISSAL OF APPEAL**

4 The parties consent to the submission of this Agreement to the Board and request that,
5 based upon a full and final settlement having been reached, the Board dismiss this appeal with
6 prejudice. Both parties further agree to bear their own costs and attorneys' fees associated with
7 this appeal.

8 **J. EFFECTIVE DATE**

9 This Agreement shall become effective upon issuance of the Board's order dismissing
10 this appeal.

11 **K. SIGNATORIES AUTHORIZED**


12 The undersigned representatives for Ecology and Milestone certify that they are fully
13 authorized by the party whom they represent to enter into the terms and conditions of this
14 Agreement and to legally bind such party thereto.

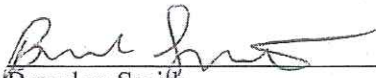
15 **L. EXECUTION**

16 This document may be executed in counterparts and may be executed by facsimile
17 and/or electronically, and each executed counterpart shall have the same force and effect as the
18 original instrument.

19 STATE OF WASHINGTON
20 DEPARTMENT OF ECOLOGY

THE MILESTONE COMPANIES, LLC

21 
22 Vincent McGowan
23 Program Manager
24 Water Quality Program


Brandon Smith

25 Dated: 9/21/2022

Dated: 9/20/2022

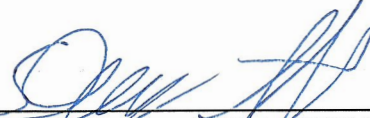
1 ROBERT W. FERGUSON
2 Attorney General

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4 Dylan Stonecipher, WSBA #58245
5 Assistant Attorney General
6 Attorneys for Respondent
360-586-5115
dylan.stonecipher@atg.wa.gov

7 Dated: Sept. 29, 2022

NORTHWEST RESOURCE LAW PLLC



Douglas J. Steding, WSBA #37020
Attorneys for Appellant
206-971-1567
dsteding@nwresourcelaw.com

Dated: 9.28.22