

**POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON**

WILLAPA-GRAYS HARBOR OYSTER
GROWERS ASSOCIATION,
Appellant,

v.

PCHB No. 18-073

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY,
Respondent,

**Declaration of Laura Hendricks in Support
of Motion to Intervene**

and

AD HOC COALITION FOR WILLAPA
BAY,

Respondent Intervenors

CENTER FOR FOOD SAFETY, CENTER
FOR BIOLOGICAL DIVERSITY,
COALITION TO PROTECT PUGET SOUND
HABITAT,

Proposed Respondent Intervenors.

I, Laura Hendricks, declare that if called as witness in this action I would competently testify of my own personal knowledge, as follows:

1. I am a Governor of the Coalition to Protect Puget Sound Habitat (the "Coalition"), a 501(c)3 non-profit organization incorporated under the laws of the State of Washington. I

1 submit this declaration in support of Applicant Coalition To Protect Puget Sound Habitat's
2 motion to intervene as Respondents in the proceeding before the Pollution Control Hearings
3 Board regarding Washington State Department of Ecology's (Ecology) denial of a permit to use
4 imidacloprid to kill the native burrowing shrimp that live on or near commercial oyster and clam
5 beds in Willapa Bay and Grays Harbor.

6 2. The Coalition's mission since 2007 has been to voice citizens' concerns regarding
7 the dramatic increase in industrial-scale aquaculture in Washington waters, educate decision
8 makers and the public about the impact of the industry's actions on the health and quality of
9 Puget Sound and Washington's coastal waters, and advocate for improvements in laws,
10 regulations, and policies to protect shoreline habitat.

11 3. The Coalition is supported by hundreds of interested citizens, environmentalists,
12 beach naturalists, scientists and recreational users who reside near Washington's coastal waters.
13 Our supporters use the waters of Puget Sound and its coastal shorelines to boat, kayak,
14 beachcomb, hike, birdwatch, view wildlife and fish. They share a deep interest in the ecological
15 health of Washington's nearshore waters.

16 4. Our members support the Coalition because they are concerned with the
17 destruction of the nearshore environment through industrial-scale conversion of the habitat.
18 These members and their interests have been and are being adversely affected by the commercial
19 shellfish industry's use of pesticides, and support Ecology's denial of the imidacloprid permit to
20 protect Washington's unique ecology and habitats, used by numerous species of wildlife and
21 humans alike.

1 5. My interests, as well as those of the Coalition members, are highly dependent
2 upon plentiful populations of fish and wildlife and a healthy nearshore food web for us to
3 observe, study and enjoy.

4 6. I have been provided reports by experts that document the impacts of industrial
5 aquaculture on the ecology of Washington's waters since 2007. In recent years, I along with
6 numerous citizens, have noticed the significant number of commercial shellfish aquaculture
7 operations that are poisoning our shorelines with pesticides and toxin-adsorbing plastics like
8 High Density Polyethylene (HDPE) which are routinely used in Willapa Bay/Grays Harbor.
9

10 7. During my visits to Willapa Bay and Grays Harbor and through conversations
11 after the visits, I have become even more concerned about the serious adverse effects of the
12 decades long practice of spraying carbaryl, imazamox, imazapyr, and imidacloprid pesticides in
13 the marine waters. These concerns are supported by the wildlife counts conducted by the
14 Washington Dept of Fish and Wildlife that documented the plummeting numbers of salmon,
15 forage fish and birds in Willapa Bay/Grays Harbor. In addition, Willapa Bay green sturgeon is
16 listed as threatened under the Endangered Species Act.
17

18 8. It is well documented from the comments provided to the Washington
19 Department of Ecology from reputable sources during the public comment period, that the
20 application of imidacloprid in Willapa Bay/Grays Harbor will do untold harm to marine species
21 of Willapa Bay/Grays Harbor. Our members are very concerned about the continued destruction
22 of the food web by the application of chemicals and the long-term detrimental effects on the
23 aquatic life.
24

25 9. The Coalition has a vested interest in opposing pesticide use by industrial
26 shellfish aquaculture given the significant negative environmental impacts that result. These

1 impacts directly contradict the Coalition's mission of protecting the health and diversity of
2 Washington's marine waters for the continued existence of the native species that depend on
3 unpolluted waters and for future use and enjoyment of the environment by our members.

4 10. The Coalition has submitted comments regarding shellfish aquaculture and
5 pesticide use to Ecology, National Marine Fisheries Service, the U.S. Environmental Protection
6 Agency (EPA) and U.S. Army Corps of Engineers, among other regulatory agencies, via the
7 public notice-and-comment process. The Coalition also sends out action alerts to its members,
8 encouraging them to participate in the notice-and-comment process, or to submit letters to
9 government officials related to the oversight of industrial aquaculture, pesticide use, and other
10 issues affecting the Coalition's mission of protecting Puget Sound and Washington shorelines
11 and waters.
12

13 11. The Coalition has been working on issues of shellfish aquaculture in Washington
14 State for many years. For example, the Coalition began filing organizational comments to the
15 Army Corps on the Nationwide Permit (NWP) 48 for Commercial Shellfish Aquaculture, to
16 Headquarters as well as the Seattle District beginning in 2008. Our numerous comments
17 addressed the Army Corps' overall regulation of shellfish aquaculture under Clean Water Act
18 Section 404 and listed numerous adverse impacts including the impacts of pesticide use by the
19 shellfish industry in Willapa Bay/Grays Harbor. We pointed out the Army Corps' failure to
20 consider or prevent these impacts to water quality when issuing its general permit.
21

22 12. I along with several other Coalition members testified and submitted comments at
23 the public hearing in Olympia with Ecology opposing the proposal to spray the insecticide
24 imidacloprid on shellfish beds in Willapa Bay and Grays Harbor, WA. During the past years
25 imidacloprid spraying has been brought up by the shellfish industry growers, Coalition members
26

1 have attended meetings, made public comments, sent emails to interested parties urging them to
2 oppose the use of pesticides in Washington marine waters and consulted with scientists that
3 documented the potential harm.

4 13. Accordingly, defending Ecology's denial of the imidacloprid permit is of
5 fundamental importance to the Coalition and to the interests of our members. The Coalition
6 seeks to defend Ecology's denial to prevent further injuries to the Coalition and its individual
7 members from the use of imidacloprid on shellfish beds which are in public marine waters.
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10 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
11 correct.

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13 Respectfully submitted this 1st day of February, 2019 in Gig Harbor, Washington.

14 /s/ LAURA HENDRICKS
15 Laura Hendricks
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1 **CERTIFICATE OF SERVICE**

2 I certify under penalty of perjury under the laws of the state of Washington that on
3 February 5, 2019, I served a true and correct copy of the Declaration in Support of Motion to
Intervene on the following via electronic mail and First Class Mail:

4 Environmental and Land Use Hearings Office
5 Attn: Pollution Control Hearings Board
6 1111 Israel Rd. SW, Suite 301
Tumwater, WA 98501

7
8 *Respondent*

9 Department of Ecology
10 PO Box 47600
Olympia, WA 98504-7600
eluho@eluho.wa.gov
11
12 Ivy Anderson
Assistant Attorney General
13 Office of the Attorney General
Ecology Division
14 PO Box 40117
Olympia, WA 98504-0117
15 Ivy A@atg.wa.gov

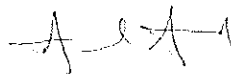
Appellant

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Eliza Hinkes
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Kristine Williams
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16
17 *Intervenor Respondent*

18 Ad Hoc Coalition for Willapa Bay
Larry Warnberg
31 Hurt Rd.
19 Raymond, WA 98577
warnberg@pacifier.com

20
21 DATED this 5th day of February, 2019, at Seattle, Washington.

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Andrew Hawley