

**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 Nathan Donley 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, Nathan Donley, declare as follows:

1. I am over 21 years of age and have personal knowledge of the matters asserted in this declaration, and I would state the same if called upon to testify.

2. I am a Senior Scientist in the Environmental Health Program at the Center for Biological Diversity ("CBD"). I submit this declaration in support of Applicant Center for Biological

1 Diversity's motion to intervene as Respondents in the proceeding before the Pollution Control
2 Hearings Board regarding Washington State Department of Ecology's ("Ecology") denial of a
3 permit to use imidacloprid to kill the native burrowing shrimp that live on or near commercial
4 oyster and clam beds in Willapa Bay and Grays Harbor.

5 3. CBD's mission is to ensure the preservation, protection, and restoration of biodiversity,
6 native species, ecosystems, public lands and water, and public health through science, policy,
7 and law. Based on the understanding that the health and vigor of human societies, plants and
8 wildlife, and the natural environment are deeply intertwined, CBD works to protect and to secure
9 a future for animals and plants hovering on the brink of extinction, for the ecosystems they need
10 to survive, and for the people that interact with, depend on, and cherish these ecosystems. The
11 Environmental Health Program is focused on protecting biodiversity and human health from
12 toxic substances.

13
14 4. CBD's Environmental Health program works to help reduce the threats posed by
15 pesticides and other pollutants through scientific, legal, and policy mechanisms. I strive to
16 represent the interests of our members and am concerned about how pesticides are impacting
17 them, their families, and the environment that they rely upon. I am relieved that CBD works on
18 my and our behalf to enforce standards that help reduce the threat of pollution and pesticides and
19 help better inform the public of the dangers of pesticides.

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21 5. CBD cannot, of course, work on every pesticide issue in the country. Thus, we have to
22 set priorities for our pesticides work. One factor we consider in setting priorities for our
23 pesticides work is determining the gravity and magnitude of the threats to the environment and
24 wildlife, including species listed under the Endangered Species Act ("ESA").

25
26 6. The use of imidacloprid would also harm individual CBD staff and members. CBD has
27 over 3,000 members in the state of Washington. CBD members regularly enjoy using

1 Washington's coastline and bays, including Willapa Bay/Grays Harbor. They regularly visit
2 Washington's beaches and bays and enjoy many activities there such as bird watching, walking,
3 boating, observing wildlife, and appreciation of the area's natural beauty. They value threatened,
4 endangered, and non-endangered species and are concerned by the impacts of pesticides on
5 waterways, wildlife and the environment.

6 7. I am a member of CBD and I work and reside in Olympia, Washington. My family and I
7 plan on vacationing in Willapa Bay this year.

8 8. In my role at CBD, I am involved in analyzing the impacts of toxic substances on the
9 environment and public health. One of my ongoing responsibilities at CBD is studying the
10 effects of pesticide use on human health and the environment. I have written nearly 100 technical
11 comments to the U.S. Environmental Protection Agency ("EPA") regarding new pesticide
12 approvals, pesticide re-registrations, and ecological and human health risk assessments of
13 pesticides subject to EPA's registration process, as well as other pesticide-related decisions and
14 documents.
15

16 9. On behalf of CBD, I have submitted multiple comments to the EPA regarding the
17 agency's risk assessment analyses of neonicotinoids, including imidacloprid, in agriculture. This
18 includes comments specifically on the EPA's analysis of risk to aquatic species from the use of
19 imidacloprid.
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21 10. CBD has submitted written comments to Ecology opposing the spraying of the
22 insecticide imidacloprid on shellfish beds in Willapa Bay and Grays Harbor. On behalf of CBD,
23 I attended a public meeting in Lacey hosted by Ecology in October of 2017. There I gave public
24 testimony opposing the spraying of imidacloprid on shellfish beds due to potential public and
25 environmental health impacts.
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27

1 11. CBD has sent an action alert to its thousands members in Washington to send their own
2 comments to Ecology and urge them to deny the permit to spray imidacloprid on oyster beds in
3 Willapa Bay and Grays Harbor.

4 12. On behalf of CBD, I wrote an op-ed that was published in the Seattle Times in October
5 2017 outlining the harm that could occur if this permit was approved and laying out CBD's
6 opposition to this issue.

7 13. Accordingly, defending Ecology's denial of the permit to spray imidacloprid on shellfish
8 beds is of fundamental importance to CBD and to the interests of our members. CBD seeks to
9 defend Ecology's denial to prevent further injuries to CBD members from the use of
10 imidacloprid on shellfish beds.
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13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
14 correct.

15 Respectfully submitted this 5th day of February, 2019 in Olympia, Washington.

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18 Nathan Donley
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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
11 eluho@eluho.wa.gov
12 Ivy Anderson
13 Assistant Attorney General
Office of the Attorney General
14 Ecology Division
PO Box 40117
15 Olympia, WA 98504-0117
Ivy A@atg.wa.gov

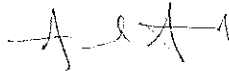
Appellant

Doug Steding
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Diane M. Meyers
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Eliza Hinkes
ehinkes@nwresourcelaw.com
Kristine Williams
kwilliams@nwresourcelaw.com

16
17 *Intervenor Respondent*

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

21 DATED this 5th day of February, 2019, at Seattle, Washington.
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24 _____
25 Andrew Hawley
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