

**SETTLEMENT AGREEMENT, RELEASE OF CLAIMS
AND COVENANT NOT TO SUE**

This Settlement Agreement, Release of Claims, and Covenant Not to Sue ("Settlement Agreement" or "Agreement") is entered into by and between Puget Soundkeeper Alliance ("Soundkeeper") and BP West Coast Products LLC ("BP"). Soundkeeper and BP are sometimes collectively referred to herein as "Parties" or individually as "Party."

RECITALS

WHEREAS, Soundkeeper notified BP, via correspondence dated January 26, 2016, of its Notice of Intent to Sue Under the Clean Water Act and Request for Copy of Stormwater Pollution Prevention Plan ("Notice Letter") for alleged violations of Sections 301(a) and 402 of the CWA and the terms and conditions of BP's National Pollutant Discharge Elimination System ("NPDES") permit No. WAR005603 authorizing discharges of stormwater associated with industrial activity (the "NPDES Permit"); and

WHEREAS, BP removed certain industrial equipment and residues from the portions of the Facility's pier that drain directly to the Duwamish River; and

WHEREAS, given the uncertainties, costs and expenses of litigation, Soundkeeper and BP have agreed to enter into this Settlement Agreement to finally compromise and settle all disputes relating to the Notice Letter; and

NOW THEREFORE, upon consideration of the mutual promises herein contained, BP and Soundkeeper hereby agree as follows:

TERMS

1. This Settlement Agreement shall apply to the operation and/or oversight of the facility, located at 1652 SW Lander St., Seattle, Washington 98134 (the "Facility"). It is the intent of the Parties that the obligations set forth in this Settlement Agreement run with the Facility and its operator, whether BP or any successor or assignee.

2. BP will comply with all conditions of the NPDES permit, and any successor or replacement Clean Water Act permit.

3. BP will complete the following actions with respect to its operations at the Facility:

- a. Not later than the Effective Date of this Settlement Agreement, BP will amend, sign, and certify a copy of the Facility's Stormwater Pollution Prevention Program (SWPPP) that includes a plan for recovering any future spills of product or oily wastewater inside the Facility's tank farms from soil and groundwater before it can reach the Duwamish River, including a detailed process for obtaining necessary agency approvals and installing inland recovery wells and/or other measures capable of recapturing product before it reaches the Facility's shoreline recovery wells. This plan will include title, and phone numbers of Facility staff and agency staff to be contacted in the event of a spill, the name, title, and phone numbers of contractors prepared and available to perform this work on short notice, and the Facility staff responsible for coordinating agency approvals and ensuring prompt remedial actions are taken.
- b. Not later than the Effective Date of this Settlement Agreement, BP will begin collecting its stormwater discharge samples under the NPDES Permit from the following sample locations: Outfall 001, Outfall 002, Outfall 003, Outfall 004, and Outfall 007W, and sign and certify an amended SWPPP that reflects these sampling locations. Not later than the effective date of this Settlement Agreement, BP will submit an Industrial Stormwater General Permit Discharge/Sample Point Update Form to the Department of Ecology that reflects the sample points listed in this subparagraph 3(b). BP will continue sampling Outfall 001, Outfall 002, Outfall 003, Outfall 004, and Outfall 007W unless and until one or more of these outfalls are eliminated, rerouted, or combined with another outfall or drainage basin, in which case BP will submit an Industrial Stormwater General Permit Discharge/Sample Point Update Form to the Department of Ecology that reflects the change and collect stormwater samples from any new, combined, or substitute outfall.
- c. BP will maintain the portions of its pier that drain directly to the Duwamish River free from industrial equipment and materials that have the potential to pollute stormwater runoff, and refrain from engaging in pollutant-generating industrial activities in these portions of the pier.

- d. Not later than October 1, 2017, BP will (i) remodel and upgrade the Facility's stormwater collection and conveyance system; and (ii) treat stormwater runoff from Basins 001, 002, 003, and 004, and all stormwater runoff from the Facility's buildings' roofs (including the load rack canopy and the east and west sides of the warehouse building's roof) with devices technically based on Grattix "rain garden in a box" devices. However, if by no fault of BP all permits and government authorizations necessary for such work have not been issued by June 1, 2017, and BP provides prompt notification to Soundkeeper of such delays, the implementation deadline will be extended by an amount of time, as reasonably determined to be necessary by agreement of the Parties, provided that Soundkeeper will not unreasonably withhold approval of the deadline extension proposed by BP. Similarly, if such performance is delayed by events which constitute a Force Majeure event, performance obligation deadlines under this subparagraph will be extended by an amount of time as reasonably determined necessary by agreement of the Parties, provided that Soundkeeper will not unreasonably withhold approval of the deadline extension proposed by BP. A Force Majeure event is defined as any event arising from causes beyond the reasonable control of the operator including its employees, agents, consultants and contractors, which could not be overcome by due diligence and which delays or prevents performance within the above-specified time period.
- e. BP will forward all correspondence to and from the Department of Ecology related to the NPDES Permit, and all documents provided to the Department of Ecology, related to the NPDES Permit, to Soundkeeper on at least a quarterly basis, through May 15, 2019. BP will provide these documents to Soundkeeper via U.S. Mail, postage pre-paid, or via email, to: Puget Soundkeeper Alliance, attn. Katelyn Kinn, 130 Nickerson Street, Suite 107, Seattle, WA 98109, katelyn@pugetsoundkeeper.org. In the event correspondence or documentation is not provided as described by this subparagraph 2(e), Soundkeeper will notify BP of the failure to provide such

document and BP will have 14 days, from the date of notice, to forward the correspondence and/or documentation to Soundkeeper.

4. Not later than thirty days after the effective date of this Settlement Agreement, BP will pay \$88,000 (EIGHTY-EIGHT THOUSAND DOLLARS) to the Puget Sound Stewardship and Mitigation Fund of the Rose Foundation for Communities and the Environment for environmental benefit projects in the Duwamish River and Puget Sound watersheds. Payment will be made by check made to the order of The Rose Foundation and delivered to: The Rose Foundation, attn. Tim Little, 1970 Broadway, Suite 600, Oakland, CA 94612. Payment shall include the following reference in a cover letter or on the check: "PSA adv. BP Seattle Terminal"

5. Not later than fourteen days after the effective date of this Settlement Agreement, BP will pay Soundkeeper's attorney and expert fees and costs in the amount of \$30,000.00 (THIRTY THOUSAND DOLLARS). Payment will be made by check payable and mailed to Smith & Lowney, PLLC, 2317 E. John Street, Seattle, Washington 98112, attn: Richard Smith.

6. Soundkeeper hereby releases and agrees not to sue BP or its successors and assigns as follows: i) at any time now or in the future related to allegations in the Notice Letter or similar Clean Water Act environmental claims concerning the Facility that may have accrued at any time prior to the Effective Date of this Settlement Agreement; ii) after the effective date of the Settlement Agreement, any claim or cause of action arising under the NPDES Permit and accruing before December 31, 2017; and iii) after the effective date of the Settlement Agreement, any claim or cause of action arising under conditions S8.C or S8.D (Level Two and Three corrective action requirements) of the NPDES Permit and accruing before December 31, 2018; provided that this release shall not limit Soundkeeper's ability to enforce its rights under this Agreement except as stated herein. Any extension of the implementation deadlines set forth in paragraph 3d shall in turn extend the dates provided above.

7. Soundkeeper will provide BP with a draft of any press release it intends to issue that primarily concerns settlement of this matter at least 48 hours prior to issuing such a press release to the media, and will give good faith consideration to any written comments BP provides.

8. The undersigned representative for each party certifies that s/he is fully authorized by the party s/he represents to enter into this Settlement Agreement and to legally bind such party and its successors in interest to it.

9. This Settlement Agreement may be assigned by either Party with not less than thirty days prior notice to the other Party. This Settlement Agreement shall apply to, and be binding upon, the Parties, their respective successors and assigns, and any and all parent and subsidiary organizations affiliated with either of the Parties. Any assignment of this Settlement Agreement shall terminate the rights and duties of the assigning Party as of and from the effective date of assignment.

10. Each party hereto reserves all legal and equitable remedies available to enforce this Settlement Agreement, which the parties intend to constitute a legally binding contract, and each party reserves the right to assert any defenses to any subsequent actions or remedies sought by the other party to enforce this Settlement Agreement in the future. In any action to enforce the terms of this Settlement Agreement, the substantially prevailing party shall be entitled to recover reasonable costs and attorneys' fees incurred in bringing and maintaining or defending such enforcement action unless manifest injustice would result. Not less than thirty (30) days before bringing any such action, the aggrieved party shall provide written notice to the other party of the dispute and the parties or their counsel shall endeavor to confer to discuss means to resolve such dispute.

11. This Settlement Agreement is intended to be and shall constitute the exclusive remedy and final resolution between the parties and their respective parent and subsidiary corporate affiliations, officials, agents, representatives, officers, directors, employees, successors and assigns for all claims arising under the Clean Water Act and any other applicable laws, statutes, rules or regulations for the allegations set forth in the Notice Letter, including, claims for civil penalties, attorneys' fees and costs, and declaratory or injunctive relief.

12. This Settlement Agreement shall not constitute an admission or adjudication with respect to any allegation set forth in the Notice Letter, or an admission or evidence of any violation, negligence, wrongdoing, misconduct or liability on the part of BP or any of its officials, agents, representatives, officers, director, employees and assigns. This Settlement Agreement shall not constitute or be deemed to constitute an admission or adjudication with respect to any allegation, fact or conclusion of law in or arising out of the Notice Letter.

13. This Settlement Agreement is not intended for the benefit of any third party and is not enforceable by any third party, including, but not limited to, and any federal, state, or local government agency, except that this Agreement shall bind the Parties' successors and assigns.

14. This Settlement Agreement may be executed in one or more counterparts which, taken together, shall be deemed to constitute one and the same document. Signatures of the parties transmitted by facsimile or e-mail shall be deemed binding.

15. This Settlement Agreement may be modified only upon the written consent of all Parties to this Agreement.

16. Notifications required by the terms of this Settlement Agreement, other than those specifically provided for under subparagraph 2(e), shall be made via U.S. Mail, postage pre-paid, and addressed as follows:

If to Puget Soundkeeper Alliance:

Puget Soundkeeper Alliance
Attn. Katelyn Kinn
130 Nickerson Street, Suite 107
Seattle WA 98109

And to:
Smith & Lowney P.L.L.C.
Attn. Claire Tonry
2317 East John Street
Seattle, WA 98112

If to BP West Coast Products LLC:

John Chandler
Commercial Manager, USPL
30 South Wacker Drive
Chicago, Illinois 60606

And to:
Pinar Dogru
BP Legal
501 Westlake Park Blvd., WL 1
Houston, TX. 77079

17. This Settlement Agreement constitutes the entire agreement between the parties. There are no other or further agreements, either written or verbal, except as expressly contained herein. Both parties are co-drafters of this Settlement Agreement. If a court determines that this Settlement Agreement is ambiguous and/or that one party was the primary drafter of this

Settlement Agreement, the Court shall not construe this Settlement Agreement against the primary drafter on that basis.

19. The effective date ("Effective Date") of this Settlement Agreement is the date of the final signature below.

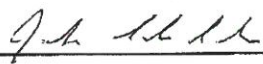
Puget Soundkeeper Alliance

Signature: 

Title: Executive Director

Dated: 7/13/16

BP West Coast Products LLC

Signature: 

Title: Attorney-in-Fact

Dated: 7/12/16

