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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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HEARINGS CLERK
EPA - REGION 10

In the Matter of:

MT. BAKER PRODUCTS, INC.,
Bellingham, Washington

Respondent.

DOCKET NO. CWA-10-2017-0112

CONSENT AGREEMENT

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 309(g)(2)(B) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g)(2)(B).

1.2. Pursuant to Section 309(g)(1) and (g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(1) and (g)(2)(B), and in accordance with Section 22.18 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Mt. Baker Products, Inc. (Respondent) agrees to issuance of, the Final Order attached to this Consent Agreement (Final Order).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (Complainant) has been delegated the authority pursuant to Section 309(g) of the CWA,

33 U.S.C. § 1319(g), to sign consent agreements between EPA and the party against whom a Class II penalty is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA, together with the specific provisions of the CWA and implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Background

3.1. The CWA prohibits the “discharge of any pollutant by any person” except as authorized by certain other provisions of the CWA, which include authorization by a National Pollutant Discharge Elimination System (NPDES) permit. CWA § 301(a), 33 U.S.C. § 1311(a); CWA § 402, 33 U.S.C. § 1342.

3.1.1. The CWA defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source” and defines “navigable waters” to include “waters of the United States.” CWA § 502(7), (12), 33 U.S.C. § 1362(7), (12).

3.1.2. The CWA defines a “pollutant” to include rock, sand, cellar dirt, biological materials, dredged spoil, and solid waste discharged into water. CWA § 502(6), 33 U.S.C. § 1362(6).

3.1.3. The CWA defines “point source” to include “any pipe, ditch, channel, tunnel, conduit, well, [or] discrete fissure ... from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14).

3.1.4. Waters of the United States include waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; all

interstate waters; and all impoundments and tributaries to those waters. 40 C.F.R. § 122.2.

3.2. An NPDES permit is required for any stormwater “discharge associated with industrial activity.” CWA § 402(p)(2)(B), 33 U.S.C. § 1342(p)(2)(B); 40 C.F.R. § 122.26(a)(1)(ii).

3.2.1. The CWA specifies that stormwater discharge “associated with industrial activity” (industrial stormwater) includes the discharge from any conveyance which is used for collecting and processing or raw materials storage areas at an industrial plant. Industrial stormwater is a type of pollutant. CWA § 402(p), 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a)(1)(ii), (b)(14).

Factual Background

3.3. Respondent is a corporation organized under the laws of the State of Washington, and is a “person” as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

3.4. Respondent owns and operates a facility (Facility), located at 2929 Roeder Avenue in Bellingham, Washington, where Respondent manufactures wood products, including hardwood plywood furniture stock panels and particle board.

3.5. At the Facility, Respondent conducts industrial activity within Standard Industrial Classification (SIC) code 2435, and Manufacturing Major Group 24, Lumber and Wood Products, Except Furniture. 40 C.F.R. § 122.26(b)(14)(ii). Respondent stores raw materials, equipment, and other items in areas of the Facility that are exposed to precipitation.

3.6. The Facility is adjacent to Bellingham Bay. The Facility has five outfalls that discharge stormwater from the Facility into or near Bellingham Bay.

3.7. Bellingham Bay is part of Puget Sound, which are waters of the United States, and are subject to the jurisdiction of the Clean Water Act. CWA § 502(7), 33 U.S.C. § 1362(7); 33 C.F.R. § 328.3(a); 40 C.F.R. § 230.3(s).

3.8. At all times relevant to this Consent Agreement, Respondent was authorized to discharge industrial stormwater that conformed to the requirements of Industrial Stormwater General Permit (ISGP) number WAR001392, issued by the Washington State Department of Ecology (Ecology).

3.8.1. The “2010 ISGP” was issued by Ecology on October 21, 2009, which in effect from January 1, 2010 through June 30, 2012.

3.8.2. The “2012 ISGP” was issued by Ecology on May 16, 2012, which was in effect from July 1, 2012 through January 1, 2015.

3.8.3. The “2015 ISGP” was issued by Ecology on December 3, 2014, which went into effect on January 2, 2015 and is scheduled to remain in effect through December 31, 2019.

3.9. EPA conducted an inspection at the Facility on October 6, 2015 (Inspection) to evaluate the treatment and disposal of stormwater in accordance with the CWA, the regulations promulgated under the CWA at 40 C.F.R. § 122.26, and the ISGP.

ISGP Section S3

Stormwater Pollution Prevention Plan

3.10. Section S3 of the ISGP requires all permittees covered by the ISGP to develop and implement a Stormwater Pollution Prevention Plan (SWPPP), and to update that SWPPP as necessary to ensure the SWPPP is effective in eliminating or significantly minimizing pollutants

in stormwater discharges from the site.

3.11. Condition S3.B of the ISGP requires all permittees covered by the ISGP to include within the SWPPP several elements, including a site map, a detailed assessment of the facility, a detailed description of the BMPs, a detailed description of the Spill Prevention and Emergency Cleanup Plan, and a sampling plan.

Violation 1: Failure to properly identify the Pollution Prevention Team

3.12. Condition S3.B.3 of the ISGP requires all permittees covered by the ISGP to identify within its SWPPP the specific individuals, by name or by title within the organization, whose responsibilities include SWPPP development, implementation, maintenance, and modification.

3.13. At the time of the Inspection, Respondent's SWPPP incorrectly identified the specific individuals responsible for development, implementation, maintenance, and modification of Respondent's SWPPP.

3.14. **Violation 1:** Respondent violated Condition S3.B.3 of the 2012 and 2015 ISGPs and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to identify within its SWPPP the specific individuals responsible for development, implementation, maintenance, and modification of Respondent's SWPPP.

Violation 2: Failure to provide annual SWPPP training.

3.15. Condition S3.B.4.b.i.5) of the ISGP requires all permittees covered by the ISGP to provide SWPPP training for employees who have duties in areas of industrial activities. Condition S3.B.4.b.i.5).c) of the ISGP requires all permittees to provide that SWPPP training on at least an annual basis. Condition S3.B.4.b.i.5).d) of the ISGP requires all permittees to

maintain a log of the dates on which specific employees received training.

3.16. The most current SWPPP training log that Respondent had available at the Facility at the time of the Inspection was from September 6, 2013. Respondent later provided training logs from SWPPP training conducted in 2015 on June 26, October 16, and October 19.

3.17. **Violation 2:** Respondent violated Condition S3.B.4.b.i.5).c) of the 2012 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to provide SWPPP training in 2014 for employees who have duties in areas of industrial activities.

Best Management Practices

3.18. Section S3.B of the ISGP establishes minimum SWPPP requirements that include Best Management Practices (BMP) to eliminate or reduce the potential to contaminate stormwater and to prevent violations of water quality standards.

3.19. Condition S3.B.4.b requires all permittees covered by the ISGP to implement certain BMPs and to include those BMPs in the permittee's SWPPP. Permittees may omit a BMP only if the Permittee clearly justifies each BMP omission in its SWPPP, based upon site conditions that rendered that BMP unnecessary, infeasible, or because the Permittee provided alternative and equally effective BMPs.

Violation 3: Dumpsters not in use were exposed to the elements

3.20. Condition S3.B.4.b.i.2).d) requires all permittees covered by the ISGP to keep all dumpsters under cover or fit with a lid that must remain closed when not in use.

3.21. At the time of the Inspection, Respondent had two wood waste dumpsters at the Facility that were exposed to the elements and were neither in use nor fitted with lids at the time of the inspection.

3.22. **Violation 3:** Respondent violated Condition S3.B.4.b.i.2).d) of the 2015 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to keep all dumpsters under cover or fit with a lid that must remain closed when not in use.

Violation 4: Failure to implement BMPs

3.23. Condition S3.B.4.b.ii.2) of the ISGP requires all permittees covered by the ISGP to implement BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.

3.24. At the time of the Inspection, Respondent was storing scrap metal at the Facility. This scrap metal was uncovered, exposed to stormwater and stormwater runoff.

3.25. **Violation 4:** Respondent violated Condition S3.B.4.b.ii.2) of the 2015 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to implement BMPs to minimize the exposure of manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.

ISGP Section S4

Sampling Requirements

3.26. Section S4 of the ISGP establishes stormwater sampling requirements for all permittees covered by the ISGP. Condition S4.C requires that all permittees ensure that analytical methods used to meet the sampling requirements specified in the ISGP conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 C.F.R. Part 136, unless specified otherwise within the ISGP.

3.27. Section S5 of the ISGP requires all permittees covered by the ISGP to satisfy the specified stormwater sampling requirements, benchmarks, and effluent limitations. Condition S5.A.1 of the ISGP requires all permittees to sample their stormwater discharges as specified in Section S4 and as specified in Table 2 of the ISGP.

Violation 5: Failure to sample each outfall

3.28. Condition S4.B of the ISGP requires all permittees covered by the ISGP to sample each distinct point of stormwater discharge off-site, in accordance with the conditions of the ISGP.

3.29. Condition S4.B.3 of the ISGP requires all permittees covered by the ISGP to record sample information from their stormwater samples and retain that information on-site.

3.30. Condition S9.A of the ISGP requires all permittees covered by the ISGP to submit sampling data obtained during each reporting period on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by Ecology.

3.31. Although Respondent's SWPPP identified five outfalls (Outfalls #1, #2, #3, #4, and #5) and identified that Respondent was developing a plan to monitor discharges from Outfall #4 and Outfall #5, from the date of the SWPPP through at least 2015, Respondent did not sample the off-site discharge of stormwater from Outfall #4 or Outfall #5.

3.32. Respondent's SWPPP does not identify any outfalls that are exempt from monitoring under the "substantially identical discharge point" provisions of the ISGP. ISGP Conditions S3.B.5.b and S4.B.2.c.

3.33. **Violation 5:** Respondent violated either Condition S4.B or S9.A of the ISGP, and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent either failed to sample each

distinct point of stormwater discharge off-site or failed to submit all sampling data to Ecology, in accordance with the conditions of the ISGP.

Violation 6: Failure to sample in accordance with 40 C.F.R. Part 136

3.34. The applicable revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* requires that samples analyzed for pH must be analyzed within 15 minutes of sample collection. 40 C.F.R. § 136.3, Table II, Parameter 28.

3.35. The applicable revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* requires that samples analyzed for Chemical Oxygen Demand (COD) must be either analyzed within 15 minutes of sample collection or preserved at a temperature equal to or less than 6 °C. 40 C.F.R. § 136.3, Table II, Parameter 15.

3.36. The applicable revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* requires that samples analyzed for Total Suspended Solids (TSS) must be either analyzed within 15 minutes of sample collection or preserved at a temperature equal to or less than 6 °C. 40 C.F.R. § 136.3, Table II, Parameter 55.

3.37. The applicable revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* requires that samples analyzed for turbidity must be either analyzed within 15 minutes of sample collection or preserved at a temperature equal to or less than 6 °C. 40 C.F.R. § 136.3, Table II, Parameter 73.

3.38. During the period of at least 2012 through October 2015, samples collected by Respondent were sent to an off-site laboratory for analysis, and as a result, Respondent's samples were not analyzed for pH within 15 minutes of sample collection.

3.39. During at least February 2015, samples collected by Respondent were preserved

at a temperature greater than 6 °C and sent to an off-site laboratory for analysis; as a result, Respondent's samples for COD, TSS, and turbidity were neither analyzed within 15 minutes of sample collection nor preserved at a temperature equal to or less than 6 °C.

3.40. **Violation 6:** Respondent violated Condition S4.C of the 2010, 2012, and 2015 ISGPs and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to sample its stormwater in accordance with the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 C.F.R. Part 136.

ISGP Section S7

Inspections

3.41. Section S7 of the ISGP establishes monthly visual inspection requirements for all permittees covered by the ISGP. Condition S7.A.1 requires all permittees to conduct and document visual inspections of the site each month. Condition S7.C.1 of the ISGP requires all permittees to record the results of each inspection in an inspection report or checklist and keep those records onsite for review.

3.42. Condition S7.C.1.e requires the permittee to include the name, title, and signature of the person who conducted the site inspection within all inspection reports or checklists, and to include a certification by the person who conducted the site inspection that the inspection report is true, accurate, and complete.

3.43. Conditions S7.C.1.f and G2.B require all inspection reports or checklists to be signed by a responsible corporate officer, or a duly authorized representative of the facility. Conditions S7.C.1.f and G2.D require all inspection reports or checklists to be certified by the individual signing the inspection report or checklist, using the certification statement provided in

Condition G2.D.

3.44. Section S9 of the ISGP establishes reporting, recordkeeping and record retention requirements. Condition S9.C.1.d requires all permittees to retain all monthly inspection reports or checklists onsite for a minimum of five years.

Violation 7: Failure to sign or certify monthly inspection reports

3.45. Respondent's monthly visual inspection reports during the period of 2012 through August 2015 were not signed or certified by the individual who conducted the site inspection for the Facility.

3.46. Respondent's monthly visual inspection reports during the period of 2012 through August 2015 were not signed or certified by a responsible corporate officer or a duly authorized representative of the facility.

3.47. **Violation 7:** Respondent violated Condition S7.C.1.e and S7.C.1.f of the ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent did not include the required signatures or certifications on Respondent's monthly visual inspection reports for the period of 2012 through August 2015.

ISGP Sections S8 and S9

Corrective Actions and Reporting

3.48. Section S8 of the ISGP establishes corrective action requirements for all permittees covered by the ISGP, and requires all permittees subject to the ISGP to summarize all corrective actions in the Annual Report.

3.49. Section S9 of the ISGP establishes reporting, recordkeeping and record retention requirements. Condition S9.A requires all permittees to prepare and submit DMRs on a

quarterly basis, for reporting the stormwater sampling data obtained during each applicable reporting period. Condition S9.B requires all permittees covered by the ISGP to prepare annual reports, to report any corrective actions that were evaluated or implemented during that calendar year within the annual report, and to submit those annual reports by May 15 of the following calendar year.

3.50. Condition S8.B requires all permittees that exceed any applicable benchmark values within the specified tables of the ISGP to implement the Level One Corrective Actions (Operational Source Control BMPs).

3.51. Condition S8.B.4 requires all permittees to implement any required Level One Corrective Actions as soon as possible, but no later than the DMR due date for the quarter the benchmark was exceeded.

3.52. Condition S8.C requires all permittees that exceed any applicable benchmark value (for a single parameter) for any two quarters during a calendar year to implement the Level Two Corrective Actions (Structural Source Control BMPs). Condition S8.C.4 requires all permittees to implement any required Level Two Corrective Actions as soon as possible, but no later than September 30th the following year, unless the permittee requests and receives an extension.

3.53. Condition S8.D requires all permittees that exceed any applicable benchmark values (for a single parameter) for any three quarters during a calendar year to implement the Level Three Corrective Actions (Treatment BMPs), as detailed within Condition S8.D. Condition S8.D.4 in the 2010 ISGP, and Condition S8.D.5 in the 2012 ISGP and 2015 ISGP, require all permittees to implement any required Level Three Corrective Actions as soon as

possible, but no later than September 30th the following year, unless the permittee requests and receives an extension.

**Violations 8-9: Violations related to
zinc exceedances at Outfall #1**

3.54. Respondent's stormwater samples from Outfall #1 during the first, second, and fourth quarters of 2011 exceeded the applicable benchmark value for zinc.

3.55. Respondent's stormwater samples from Outfall #1 during the second and fourth quarters of 2012 exceeded the applicable benchmark value for zinc.

3.56. Respondent was required to implement the following corrective actions in response to exceeding the applicable benchmark value for zinc at Outfall #1:

3.57.1. In the first half of 2011, Respondent's discharge results met the conditions that required a Level Two Corrective Action, and in the second half of 2011, Respondent's discharge results then met the conditions that required a Level Three Corrective Action. The Level Three Corrective Action was required to be completed as soon as possible, but no later than September 30, 2012, unless Respondent requested and received an extension from Ecology. ISGP Conditions S8.C, S8.D.

3.57.2. Respondent neither requested nor received an extension from Ecology for implementing the Level Three Corrective Action required for exceeding the applicable benchmark value for zinc at Outfall #1 in 2011.

3.57.3. Respondent was notified of the requirement to implement the Level Three Corrective Action by September 30, 2012, in letters from Ecology dated May 10, 2012 and June 25, 2013, and in a "Corrections Required" form issued by Ecology, dated January 15, 2013.

3.57. To resolve the Level Three Corrective Action Respondent implemented a corrective action at Outfall #1 in late June 2013.

3.58. **Violation 8:** Respondent violated Condition S8.D of the 2012 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to implement the required Level Three Corrective Action for Outfall #1 by September 30, 2012.

3.59. Conditions S8.B.2, S8.C.3, S8.D.4, and S9.B.2 of the 2012 ISGP required all permittees to summarize any required Corrective Actions (planned, undertaken, or completed) in the Annual Report.

3.60. In late June 2013, Respondent implemented its Level Three Corrective Action required in response to exceeding applicable benchmark values for zinc at Outfall #1 in 2011.

3.61. Although Respondent completed the required Level Three Corrective Action in late June 2013, Respondent did not summarize or describe the status of that Corrective Action in its Annual Report for 2013.

3.62. **Violation 9:** Respondent violated Conditions S8.C.3, S8.D.4, and S9.B.2 of the 2012 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to summarize or describe the status the required Level Three Corrective Action for Outfall #1 in its Annual Report for 2013.

**Violations 10-11: Violations related to
zinc exceedances at Outfall #2**

3.63. Respondent's stormwater sample from Outfall #2 during the second quarter of 2011 exceeded the applicable benchmark value for zinc.

3.64. Respondent was required to implement a Level One Corrective Action in

response to exceeding the applicable benchmark value for zinc at Outfall #2 during the second quarter of 2011, to be completed as soon as possible, but no later than August 14, 2011. ISGP Conditions S8.B, S9.A.4.

3.65. Although Respondent was required to implement a Level One Corrective Action in response to exceeding the applicable benchmark value for zinc at Outfall #2 during the second quarter of 2011, Respondent did not summarize the required Level One Corrective Action or detail its status in Respondent's Annual Report for 2011.

3.66. **Violation 10:** Respondent violated Condition S8.B.3 and S9.B.2 of the 2010 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to summarize or describe the status of the required Level One Corrective Action for Outfall #2 in its Annual Report for 2011.

3.67. Respondent's stormwater samples from Outfall #2 during the first, second, and fourth quarters of 2012 exceeded the applicable benchmark value for zinc.

3.68. Respondent was required to implement a Level Three Corrective Action in response to exceeding the applicable benchmark values for zinc during the first, second, and fourth quarters of 2012, to be completed as soon as possible, but no later than September 30, 2013, unless Respondent requested and received an extension from Ecology. ISGP Condition S8.D.

3.69. In Respondent's Annual Report for 2012, submitted in May 2013, Respondent identified that it began the process of replacing galvanized roof and gutter components with PVC as a Level Two Corrective Action.

3.70. Conditions S8.D.4 and S9.B.2 of the 2012 ISGP required all permittees to

summarize any required Level Three Corrective Actions (planned, undertaken, or completed) in the Annual Report, or if a corrective action was not completed at the time of submission of that Annual Report, the Permittee was required to describe the status of that outstanding corrective action.

3.71. In Respondent's Annual Report for 2013, Respondent did not summarize the required Level Three Corrective Action or detail its status, despite conducting work on its Level Three Corrective Action in 2013.

3.72. **Violation 11:** Respondent violated Conditions S8.D.4 and S9.B.2 of the 2012 ISGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a), when Respondent failed to summarize or describe the status of the required Level Three Corrective Action in its Annual Report for 2013.

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations contained in this Consent Agreement. Respondent neither admits nor denies the specific factual allegations and other legal conclusions contained in Part III of this Consent Agreement.

4.2. *Penalty:* Pursuant to Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), EPA has taken into account the nature, circumstances, extent, and gravity of the alleged violations as well as Respondent's economic benefit of noncompliance, ability to pay, and other relevant factors. After considering all of these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle the alleged violations is \$52,700 (the Assessed Penalty).

4.3. Respondent agrees to pay the Assessed Penalty within 60 days of the effective date of the Final Order. 40 C.F.R. § 22.31(c).

4.4. Payment under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Respondent must note on the check the title and docket number of this action.

4.5. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.4 on the Regional Hearing Clerk and EPA Compliance Officer at the following addresses:

Teresa Young, Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, M/S ORC-113
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Young.teresa@epa.gov

Chae Park, Compliance Officer
U.S. Environmental Protection Agency
Region 10, M/S OCE-101
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
Park.chae@epa.gov

4.6. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the Assessed Penalty under the CWA, together with interest, fees, costs, and

additional penalties described below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.7.1. *Interest.* Interest shall accrue from the effective date of the Final Order, at the rate established by the Secretary of the Treasury, and applied to any portion of the Assessed Penalty which remains unpaid 60 days after the effective date of the Final Order. CWA § 309(g)(9), 33 U.S.C. § 1319(g)(9); 31 U.S.C. § 3717(a)(1); 40 C.F.R. § 13.11(a)(3).

4.7.2. *Attorneys Fees, Collection Costs, Nonpayment Penalty.* Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), if Respondent fails to pay on a timely basis the Assessed Penalty, Respondent shall pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

4.8. *Federal Tax.* The Assessed Penalty, including any additional costs incurred under Paragraph 4.7, represent an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).

4.9. Except as described in Paragraph 4.7 and its subparagraphs, each party shall bear its own fees and costs in bringing or defending this action.

4.10. The undersigned representative of Respondent certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violations alleged in Part III.

4.11. For purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and waives any right to appeal the Final Order.

4.12. Respondent waives any and all remedies, claims for relief and otherwise available rights or remedies to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Agreement, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

4.13. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to the terms and conditions of this document.

4.14. The provisions of this Consent Agreement and Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.15. The above provisions in Part IV are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

6/1/17

FOR RESPONDENT:

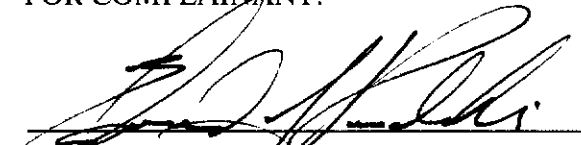
 (PRESIDENT)

ROD REMINGTON, President
MT. BAKER PRODUCTS, INC.

DATED:

6/8/2017

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

MT. BAKER PRODUCTS, INC.,
Bellingham, Washington

Respondent.

DOCKET NO. CWA-10-2017-0112

FINAL ORDER

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has in turn delegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

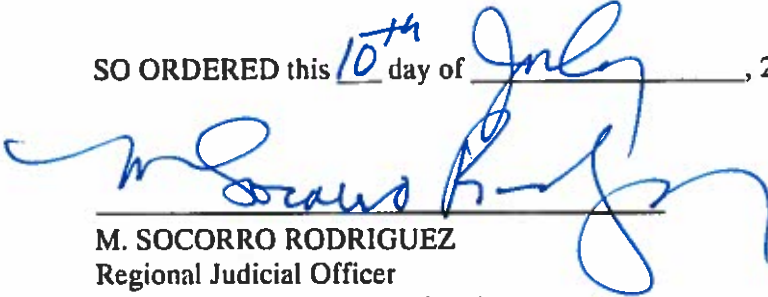
1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. The Consent Agreement and this Final Order resolve only those causes of action alleged in Part III of the Consent Agreement. This Final Order does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CWA and regulations promulgated or permits issued thereunder.

1.4. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Washington State Department of Ecology has been given the opportunity to consult with EPA regarding the assessment of the administrative civil penalty against Respondent.

1.5. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA has issued public notice of and provided reasonable opportunity to comment on its intent to assess an administrative penalty against Respondent. More than 40 days have elapsed since issuance of this public notice and EPA has received no petition to set aside the Consent Agreement contained herein.

1.6. This Final Order shall become effective upon filing.

SO ORDERED this 10th day of July, 2017.


M. SOCORRO RODRIGUEZ
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

Certificate of Service

The undersigned certifies that the original of the attached CONSENT DECREE and FINAL ORDER, **In the Matter of: MT. BAKER PRODUCTS, INC.**, Docket No.: **CWA-10-2017-0112**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Christopher Bellovary, Esquire
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Mr. Rod Remington
President
Mt. Baker Products, Inc.
2929 Roeder Ave.
Bellingham, Washington 98225

DATED this 13 day of July, 2017.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10