

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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No. 102981-1

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SUPREME COURT  
OF THE STATE OF WASHINGTON

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PUGET SOUNDKEEPER ALLIANCE, Respondent,

v.

STATE OF WASHINGTON, POLLUTION CONTROL  
HEARINGS BOARD, Respondent,

and

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,  
Respondent,

and

BNSF RAILWAY COMPANY, THE NORTHWEST  
SEAPORT ALLIANCE, PORT OF SEATTLE, PORT OF  
TACOMA, PACIFIC MERCHANT SHIPPING  
ASSOCIATION, and SSA TERMINALS, LLC, Petitioners.

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RESPONDENT PUGET SOUNDKEEPER ALLIANCE'S  
STATEMENT OF ADDITIONAL AUTHORITY

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Per Rule of Appellate Procedure 10.8, Respondent Puget Soundkeeper Alliance (“Soundkeeper”) hereby submits this statement of additional authorities in support of its Answer to the Petition for Review.

On June 10, 2024, the Ninth Circuit Court of Appeals issued a decision interpreting the language of the 2010 and 2015 versions of the Industrial Stormwater General Permit, which is nearly identical to the language of the 2020 Permit at issue in this appeal, finding that the permits cover the entire footprint of transportation facilities. *Puget Soundkeeper All. v. Port of Tacoma*, Nos. 21-35881, 21-35899, 22-35061, \_\_ F.4th \_\_, 2023 WL 11807023, 2024 U.S. App. LEXIS 14032 (9th Cir. June 10, 2024). The Ninth Circuit notes that the Washington Court of Appeals’ decision finding that the 2020 permit covers the entire footprint of transportation facilities “[p]arallel[s] the reasoning we have employed in construing the 2010 and 2015 permits. . . .” *Id.*, 2024 U.S. App. LEXIS 14032 at \*23.

This additional authority is relevant to Soundkeeper's argument that the Washington Court of Appeals ruling is well reasoned and based on applicable precedent, such that none of the Rule of Appellate Procedure 13.5(b) factors have been met and this Court should decline review. *See* Soundkeeper's Response to Petition for Review at 9.

This document contains 209 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 17th day of June, 2024.

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By /s/ Claire Tonry

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### CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on this date I caused the foregoing document to be served upon the parties in the above-captioned matter via the Appellate Court Filing Portal, which sends electronic notifications to all parties of record.

Dated this 17th day of June 2024, in Seattle, Washington.

A handwritten signature in dark ink, appearing to read 'Kai', is written above a horizontal line.

Kai McDavid

**SMITH & LOWNEY**

**June 17, 2024 - 1:16 PM**

**Transmittal Information**

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