

2014 SEP 19 A 9

September 18, 2014

DEMAND FOR HEARING PURSUANT TO RCW 4.04.010

Commissioner Mike Kreidler
Washington State Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Re: Washington USL&H Assigned Risk Plan
WIGA Assessments
File No. 208.14-2390

Dear Commissioner Kreidler:

I represent the Washington USL&H Assigned Risk Plan ("WARP") and am submitting this demand for a hearing concerning the assessment made against SeaBright Insurance Company by the Washington Insurance Guaranty Association ("WIGA") related to the Eagle Pacific/Lumbermens liquidation. WARP sees no need for an evidentiary hearing inasmuch as there are no facts in dispute. WARP believes the hearing could be conducted in the form of a declaratory proceeding. All of the relevant information is included with this letter.

On June 2, 2014, I sent a letter on WARP's behalf to the Washington Insurance Guaranty Association, a copy of which is enclosed. I received a response to WARP's request in a letter from the firm of Soha & Lange dated June 24, 2014, a copy of which is enclosed. Soha & Lange represents the Washington Insurance Guaranty Association. Inasmuch as the response from WIGA failed to grant WARP its requested relief, WARP is submitting this demand for a hearing.¹

¹ As shown by the attachment to the June 2 letter, SeaBright assigned to WARP SeaBright's right to contest WARP's portion of the assessment.

Enclosed please find copies of the following:

- Letter addressed to Washington Guaranty Association dated June 2, 2014, with attachments; and
- Letter of Soha & Lange dated June 24, 2014

As stated in my June 2 letter to the Washington Insurance Guaranty Association and as you are likely aware, WARP is not an authorized insurer so in order to conduct its business, it contracts with authorized Washington insurers who are able to issue USL&H policies and handle the claims covered by the policies. The insurer serves as WARP's servicing carrier as prescribed by the applicable Washington regulations. Pursuant to the contracts entered into between WARP and its servicing carriers, WARP fully reimburses a servicing carrier for claims paid by the insurer. WARP, in essence, serves as the guaranty fund for claims paid by the servicing carrier for policies written for the benefit of WARP.

In 2001, WARP contracted with Eagle Pacific Insurance Company to serve as its servicing carrier. When Eagle Pacific stopped writing policies in 2003, WARP replaced Eagle Pacific with SeaBright Insurance Company as its servicing carrier. SeaBright concurrently entered into an arrangement with Eagle Pacific to act as the servicing carrier for WARP claims filed against the Eagle Pacific/WARP policies. WARP fully reimbursed the entity that paid the claims.

Because of the Eagle Pacific/Lumbermens receivership, SeaBright Insurance Company received an assessment pursuant to the Washington Guaranty Association Act. The assessment submitted to SeaBright includes an assessment based upon the premiums generated by SeaBright as the servicing carrier for WARP during 2012. Pursuant to the terms of the servicing carrier agreement between WARP and SeaBright, WARP is responsible to SeaBright for WARP's portion of the assessment. This *de facto* assessment against WARP is in excess of \$150,000 for 2012. Under protest and without prejudice of WARP's right to seek reimbursement of the 2012 and future assessments, WARP tendered to WIGA its portion of the SeaBright assessment in the amount of \$153,518.55. Inasmuch as WARP is fully reimbursing the Lumbermens estate for claims paid by the receiver for WARP business, WARP, in its June 2 letter, asked WIGA to exclude WARP's portion of the premiums from the SeaBright assessment base for the 2012 assessed premiums as well as for future assessments. WARP also asked WIGA for reimbursement of the described 2012 assessment.

WARP has agreed to pay any claims that may arise against the Eagle Pacific insurance policies issued on behalf of WARP. As of December 31 of 2013, WIGA estimated WARP's liability to be almost \$2,000,000. However, WARP is now also being asked to pay an assessment to the Guaranty Fund. Inasmuch as WARP has agreed to assume the full liability of the Eagle Pacific/WARP claims, WARP should not be asked to also pay any portion of any SeaBright assessments.

The statutes that prescribe the operation of WIGA do not apply to WARP, yet the Lumbermens receivership plus WIGA are imposing an unfair burden on WARP:

- WARP is not a “member insurer” as defined by the Act, yet is effectively being assessed as though it is a member insurer.
- WARP is not entitled to a premium tax credit available to member insurers.
- WARP has agreed to assume the full liability of claims submitted against the insolvent insurer that provided the servicing carrier services for WARP.

At the time of the filing of the Lumbermens receivership, WARP requested approval from WIGA to have SeaBright continue to adjust and pay WARP’s claims and WARP would have continued to fully reimburse SeaBright. Regardless, WIGA and Lumbermens required WIGA to handle the claims. WARP has paid the reimbursements requested by the Lumbermens receiver. If WIGA and Lumbermens would have allowed SeaBright to continue to handle the WARP/Eagle Pacific claims, the maritime businesses and claimants would have been properly served at no expense to WIGA or Lumbermens, yet the Lumbermens receiver and WIGA insisted that they take over the handling of the claims. WARP conceded to the demands and agreed to reimburse the full amount of any claim payment made by WIGA to any WARP/Eagle Pacific claimant.

Section 145 of the Washington Insurance Guaranty Association Act allows a member insurer to recoup the amounts it pays in assessments by receiving a credit against future premium tax obligations. This statute benefits member insurers, but will not benefit WARP. SeaBright no longer issues USL&H policies in Washington and no longer serves as WARP’s servicing carrier. SeaBright will no longer collect premiums so there is no credit that could be taken to offset the assessment payments made by WARP.

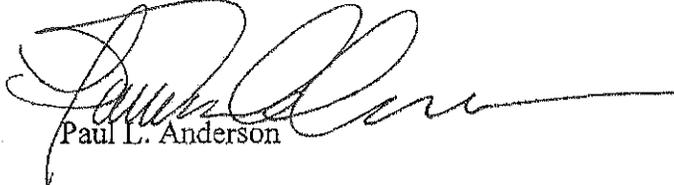
The Washington Insurance Guaranty Association Act does not apply to WARP. In the event WARP is deemed insolvent, WARP has its own guaranty mechanism set in place by Washington statute. As provided by subsection (1) of RCW 48.22.070, the WARP enabling statute, in the event of any underwriting losses, fifty percent of the losses will be paid by the authorized USL&H insurers and the other fifty percent will be paid by the Department of Labor and Industries. WIGA provides the guaranty payments on behalf of insolvent member insurers. WARP is not a “member insurer” and cannot become an “insolvent insurer” as defined by the Act because WARP does not hold a certificate of authority to issue insurance policies. For these reasons, WIGA will never need to pay funds on behalf of WARP if it becomes insolvent. WARP therefore should not be required to pay assessments to WIGA as a result of the Lumbermens insolvency or the insolvency of any other USL&H insurer.

Commissioner Mike Kreidler
September 18, 2014
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In summary, WARP asked WIGA for reimbursement of the amount paid by WARP under protest. The June 24 letter of Soha & Lange denied WARP's request. The Soha & Lange letter also denied WARP's request that it not be subject to future assessments. Because the WIGA statute does not apply to WARP coupled with WARP's agreement to assume all of the liability of the claims related to the Eagle Pacific policies, the WARP premiums should not be included in the 2012 SeaBright assessment or any WIGA assessment. WARP asks you to rule accordingly. Thank you for your consideration of our request.

Very truly yours,

LAW OFFICE OF PAUL L. ANDERSON P.L.L.C.



Paul L. Anderson

Enclosures

Cc: by email attachment only:

AnnaLisa Gellermann, Deputy Insurance Commissioner

Stewart Sawyer, Chair of WARP Committee

Gary Purdom, Executive Director of WARP

Soha & Lange and Mary R. DeYoung

LAW OFFICE OF
PAUL L. ANDERSON
P.L.L.C.

SENT BY EMAIL ATTACHMENT ONLY

June 2, 2014

Washington Insurance Guaranty Association
1720 South Bellaire Street, Suite 408
Denver, CO 80222

Attn: David C. Edwards, Executive Director

Re: Washington USL&H Assigned Risk Plan
WAGA Assessments
File No. 208.14-2390

Dear Mr. Edwards:

I represent the Washington USL&H Assigned Risk Plan ("WARP") and am writing about the assessment made against SeaBright Insurance Company by the Washington Guaranty Association ("WAGA") related to the Eagle Pacific/Lumbermens liquidation.

Enclosed please find copies of the follows:

- WAGA Assessment Letter; and
- Assignment Agreement¹

WARP is not an authorized insurer so in order to conduct its business, it contracts with authorized Washington insurers who are able to issue USL&H policies and handle the claims covered by the policies. The insurer serves as WARP's servicing carrier as prescribed by the applicable Washington regulations. Pursuant to the contracts entered into between WARP and its servicing carriers, WARP fully reimburses a servicing carrier for claims paid by the insurer. WARP, in essence, serves as the guaranty fund for claims paid by the servicing carrier for policies written for the benefit of WARP.

In 2001, WARP contracted with Eagle Pacific Insurance Company to serve as its servicing carrier. When Eagle Pacific stopped writing policies in 2003, WARP replaced Eagle Pacific with SeaBright Insurance Company as its servicing carrier. SeaBright concurrently entered into an arrangement with Eagle Pacific to act as the servicing carrier for

¹ The enclosed Assignment Agreement between WARP and Enstar allows WARP to present this petition in its name.

WARP claims filed against the Eagle Pacific/WARP policies. WARP fully reimbursed the entity that paid the claims.

Because of the Eagle Pacific/Lumbermens receivership, SeaBright Insurance Company received an assessment pursuant to the Washington Guaranty Association Act. The assessment submitted to SeaBright includes an assessment based upon the premiums generated by SeaBright as the servicing carrier for WARP during 2012. Pursuant to the terms of the servicing carrier agreement between WARP and SeaBright, WARP is responsible to SeaBright for WARP's portion of the assessment. This *de facto* assessment against WARP is in excess of \$150,000 for 2012. Under protest and without prejudice of WARP's right to seek reimbursement of the 2012 and future assessments, WARP will tender to WAGA its portion of the SeaBright assessment in the amount of \$153,518.55. Inasmuch as WARP is fully reimbursing the Lumbermens estate for claims paid by the receiver for WARP business, WARP asks WAGA to exclude WARP's portion of the premiums from the SeaBright assessment base for the 2012 assessed premiums as well as for future assessments. WARP petitions WAGA for reimbursement of the described 2012 assessment. Pursuant to the terms of the enclosed Assignment Agreement, the reimbursement payment should be made to WARP and not to SeaBright.

WARP has agreed to pay any claims that may arise against the Eagle Pacific insurance policies issued on behalf of WARP. As of December 31 of 2013, WAGA estimated WARP's liability to be almost \$2,000,000. However, WARP is now also being asked to pay an assessment to the Guaranty Fund. Inasmuch as WARP has agreed to assume the full liability of the Eagle Pacific/WARP claims, WARP should not be asked to also pay any portion of any SeaBright assessments.

The statutes that prescribe the operation of WAGA do not apply to WARP, yet the Lumbermens receivership plus WAGA are imposing an unfair burden on WARP:

- WARP is not a "member insurer" as defined by the Act, yet is effectively being assessed as though it is a member insurer.
- WARP is not entitled to a premium tax credit available to member insurers.
- WARP has agreed to assume the full liability of claims submitted against the insolvent insurer that provided the servicing carrier services for WARP.

At the time of the filing of the Lumbermens receivership, WARP requested approval from WAGA to have SeaBright continue to adjust and pay WARP's claims and WARP would have continued to fully reimburse SeaBright. WAGA and Lumbermens required WAGA to handle the claims. WARP has paid the reimbursements requested by the Lumbermens receiver. If WAGA and Lumbermens would have allowed SeaBright to continue to handle the WARP/Eagle Pacific claims, the maritime businesses and claimants would have been properly served at no expense to WAGA or Lumbermens, yet the Lumbermens receiver and WAGA insisted that they take over the handling of the claims.

WARP conceded to the demands and agreed to reimburse the full amount of any claim payment made by WAGA to any WARP/Eagle Pacific claimant.

Section 145 of the Act allows a member insurer to recoup the amounts it pays in assessments by receiving a credit against future premium tax obligations. This statute benefits member insurers, but will not benefit WARP. SeaBright, because it no longer issues USL&H policies in Washington, no longer serves as WARP's servicing carrier. SeaBright will no longer collect premiums so there is no credit that could be taken to offset the assessment payments made by WARP.

The Washington Insurance Guaranty Association Act does not apply to WARP. In the event WARP is deemed insolvent, WARP has its own guaranty mechanism set in place by Washington statute. As provided by subsection (1) of RCW 48.22.070, the WARP enabling statute, in the event of any underwriting losses, fifty percent of the losses will be paid by the authorized USL&H insurers and the other fifty percent will be paid by the Department of Labor and Industries. WAGA provides the guaranty payments on behalf of insolvent member insurers. WARP is not a "member insurer" and cannot become an "insolvent insurer" as defined by the WAGA Act because WARP does not hold a certificate of authority to issue insurance policies. For these reasons, WAGA will never need to pay funds on behalf of WARP if it becomes insolvent. WARP therefore should not be required to pay assessments to WAGA as a result of the Lumbermens insolvency or the insolvency of any other USL&H insurer.

In summary, WARP asks WAGA for reimbursement of the amount paid by WARP under protest. Because the WAGA statute does not apply to WARP coupled with WARP's agreement to assume all of the liability of the claims related to the Eagle Pacific policies, the WARP premiums should not be included in the 2012 SeaBright assessment or any WAGA assessment. Thank you for your consideration of our request.

Very truly yours,

LAW OFFICE OF PAUL L. ANDERSON P.L.L.C.



digital signature

Paul L. Anderson

Enclosures

Washington Insurance Guaranty Association
June 2, 2014
Page 4

Cc: by email attachment only:
Stewart Sawyer, Chair of WARP Committee
Gary Purdom, Executive Director of WARP

Washington Insurance Guaranty Association
c/o Western Guaranty Fund Services
1720 South Bellaire Street, Suite 408
Denver, CO 80222

Phone: (303) 759-5066

Fax: (303) 759-5236

January 22, 2014

NAIC# 15563
SeaBright
Attn: Karla Youngers
P.O. Box 91100
Seattle, WA 98111

To Whom It May Concern:

In a past session of the Washington legislature, the Washington Insurance Guaranty Association (WAGA) Act (RCW 48.32.010 *et seq*) was amended to provide coverage by WAGA for claims of insolvent insurers who wrote Longshore and Harbor Workers' (L&HW) Compensation Act Insurance, for any insolvency occurring after the passage of the amendment. The recent liquidation of the Lumbermens Group has necessitated that WAGA process outstanding L&HW claims.

To provide funding for this coverage, WAGA was mandated to assess those insurers writing such coverage in the state in an amount up to 3% of the net direct written premium in the preceding year. Assessments in subsequent years are also mandated, with a provision that the net fund balance will not exceed 4% of the previous year's net direct written premium at any time.

Enclosed is an assessment invoice. **This invoice is now past due. If we do not receive payment by January 31, 2014, we will have an obligation to contact the Office of the Insurance Commissioner.** Thank You.

Sincerely,



Lorraine Segedie, Controller
Washington Insurance Guaranty Association

DE/pm

Enclosure

WASHINGTON INSURANCE GUARANTY ASSOCIATION
1720 SOUTH BELLAIRE STREET, SUITE 408
DENVER, CO 80222

ASSESSMENT STATEMENT
12-05-2013

NAIC # 15563
SeaBright

Attn: Karla Youngers
P.O. Box 91100
Seattle, WA 98111

Past Due-Final Notice

TYPE OF ASSESSMENT	PREMIUM YEAR	CLASS	YOUR ASSESSABLE PREMIUM WRITTEN	ASSESSMENT PERCENTAGE	YOUR ASSESSMENT
LONG SHOREMAN AND HARBOR WORKERS	2012	LSHW	\$12,635,089	3.00000	\$379,053

.....
TOTAL AMOUNT DUE: \$379,053

Payment is due January 15, 2014. To assure proper credit for this assessment, please include a copy of this statement with payment to the following payee and address:

Washington Insurance Guaranty Association
c/o Western Guaranty Fund Services
1720 South Bellaire Street, Suite 408
Denver, CO 80222

David Edwards, President
Western Guaranty Fund Services
For William Clumpner, Acting Chairman
Washington Insurance Guaranty Association

SeaBright Insurance Company

Datatype	Actual		
Overboard	(All)		
Company	KEIC		
Period	YTD		
PrincipalJurisdiction	(All)		
PlanType	(All)		
State	WA		
Renewal	(All)		
PolicyName	(All)		
InForce	(All)		
GPW		ReportDate	
Jurisdiction	UWDivision	12/31/2012	
LH	Assigned Risk	5,117,285	
	Construction	-373	
	Energy	189	
	Maritime	6,211,824	
	Other	-248	
	Small Maritime Platform	1,306,412	
Grand Total		12,635,089	
	Warp (Assigned Risk)	5,117,285.00	
	Rate	0.03	
	Amt due from WARP	153,518.55	
	All other LH Prens	7,517,804.00	
	Rate	3%	
	Amt Due from SBIC	225,534.12	
	Grand Total	12,635,089.00	
	Rate	3%	
	Grand total due	379,052.67	
Premium Tax Credit:	SBIC	WARP	
2013	45,106.82	30,703.71	
2014	45,106.82	30,703.71	
2015	45,106.82	30,703.71	
2016	45,106.82	30,703.71	
2017	45,106.82	30,703.71	
	225,534.12	153,518.55	

ASSIGNMENT AGREEMENT

COME NOW the Washington USL&H Assigned Risk Plan ("WARP") and SeaBright Insurance Company ("SeaBright") enter into this Assignment Agreement.

WHEREAS, WARP) was established by the Washington Legislature to provide access to USL&H (longshore and harbor workers') insurance to Washington maritime businesses who are unable to obtain such coverage from the private insurers. WARP is not an insurance company so it contracts with a USL&H insurer as its servicing carrier; and

WHEREAS, SeaBright is an insurance carrier which was issued a certificate of authority by the Washington State Office of the Insurance Commissioner to issue policies covering USL&H exposures in the state of Washington; and

WHEREAS, WARP and SeaBright entered into a Servicing Carrier Agreement ("SCA") effective January 1, 2010 which provides for the collection by SeaBright of premiums from holders of insurance policies issued on behalf of WARP; and

WHEREAS, the Washington Insurance Guaranty Association Act (WAGA) provides for, *inter alia*, payment of claims tendered against a USL&H insurer if the insurer has been placed into receivership, is under an order of liquidation or is insolvent; and

WHEREAS, provisions of WAGA allow the Association to make assessments against Washington USL&H insurers to fund the administration and payment of claims that would have been paid by a USL&H insurer who became insolvent; and

WHEREAS, Eagle Pacific Insurance Company contracted with WARP in 2001 to serve as WARP's servicing carrier. Eagle Pacific serviced the WARP business through 2003 when Eagle Pacific stopped writing policies and when SeaBright assumed the role as WARP's servicing carrier. Lumbermens Mutual Casualty Company acquired the liabilities of Eagle Pacific Insurance Company. Lumbermens became insolvent and was ordered into liquidation by the Illinois Department of Insurance on May 8, 2013. Upon the demand of the Lumbermens receiver, WARP conceded to fully reimburse the Lumbermens receiver the amounts paid to any claimant pursuant to the policies issued by Eagle Pacific on behalf of WARP. The amount of the payments for these claims is estimated to be almost \$2,000,000; and

WHEREAS, WAGA issued an assessment against SeaBright based upon the amount of premiums collected by SeaBright during 2012. A portion of the premiums resulted from the policies written by SeaBright pursuant to the WARP SCA such that the WARP portion of the SeaBright assessment for 2012 premiums is in the amount of \$153,518.55. It is contemplated that SeaBright will be assessed in a similar manner for the premiums written on WARP's behalf during 2013 and 2014; and

WHEREAS, WARP contends that it should not be required to pay its portion of the premium assessments for several reasons, including, but not limited to the concession by WARP to fully reimburse the Lumbermens receiver for the full amount of the claims paid on the Eagle Pacific/WARP policies; and

WHEREAS, WARP intends to petition WAGA to request that the amount of the SeaBright assessments be reduced by the portion of the premiums attributable to WARP.

WARP may need to appeal the WAGA decision to the appropriate bodies, including the Washington State Office of the Insurance Commissioner; and

WHEREAS, in order to conduct the petition and appeal processes, WARP needs the assignment of SeaBright's right to contest the WAGA assessments. SeaBright will not agree to such an assignment unless, among other conditions, WARP agrees to pay, under protest and without prejudice of its rights to seek reimbursement, WARP's portion of the SeaBright assessments.

NOW, THEREFORE, the parties hereto agree as follows:

1. In exchange for sufficient and valid consideration, the sufficiency of which is acknowledged, SeaBright irrevocably and unequivocally transfers, assigns and sets over to WARP free and clear of any claims of compensation, claims of reimbursement, liens or encumbrances other than described herein, all of SeaBright's right, title and interest, legal and equitable, that it has against the Washington Insurance Guaranty Association and the Washington State Office of the Insurance Commissioner concerning the premium assessment made pursuant to the Washington Insurance Guaranty Association Act, but said assignment is limited to the amount of SeaBright assessments attributable to the premiums for policies issued by SeaBright on behalf of WARP. SeaBright divests itself of all control and right of petition, appeals of the claims and causes of action related to WARP's portion of the assessments and WARP is granted the right to control the petition, appeals and causes of action, to pursue the petition, appeals and causes of action in its own name and at its own expense and shall receive all of the benefits and incur all liabilities of any petition or appeal. The parties agree that the name of SeaBright or any affiliate of SeaBright shall not be identified as a plaintiff in any petition or appeal.

2. WARP agrees to pay to WAGA the amount of \$153,518.55 representing WARP's portion of the SeaBright assessment of 2012 premiums. At which time SeaBright receives notice of an assessment based upon the 2013 or 2014 premiums, WARP shall tender payment for WARP's portion of these assessments unless relief is granted to WARP as a result of its petition or appeals.

3. WARP's agreement to pay the amounts stated in Paragraph 2 and as provided in this Assignment Agreement is made under protest of the attempt by WAGA to assert the assessment and is made without prejudice of WARP's ability to seek reimbursement of the WARP portion of the SeaBright assessments as well as any amounts paid by WARP pursuant to this Assignment Agreement. SeaBright agrees that, in the event SeaBright receives any reimbursement from WAGA as a result of WARP's petitions or appeals as contemplated by this Assignment Agreement, said amount shall be paid to WARP. Enstar agrees that this Assignment Agreement shall constitute a payment order whereby the payor of any reimbursement of the WARP portion of the SeaBright assessments is authorized to issue the payments to WARP.

4. WARP shall incur the attorney fees, costs and other expense of pursuing the petition and appeals and pursuing any other action relating to the WAGA assessment of the

WARP portion of the SeaBright premiums. SeaBright agrees to provide accounting records and other documents, testimony, declarations and information at the reasonable request of WARP.

5. This assignment is limited to the right to contest the WAGA assessment of the WARP portion of the SeaBright premiums. All other provisions set forth in the SCA shall remain as provided in the SCA and all liabilities and responsibilities of SeaBright relating to the issuance of the insurance policies are retained by SeaBright.

6. SeaBright represents and warrants that it has the authority and legal right to assign to WARP the rights of SeaBright stated herein.

7. In the event that SeaBright or any affiliate of SeaBright and the directors, agents, employees and controlling persons, as the case may be, of SeaBright, all hereinafter referred to as an "Indemnified Party," becomes involved in any capacity in any action, proceeding or investigation brought by or against any such Indemnified Party in connection with or as a result of the WARP petition or appeals of the WAGA assessment of the WARP portion of the SeaBright premiums or any other matter related to this Assignment Agreement, WARP periodically will reimburse each Indemnified Party for such party's legal and other fees and expenses (including the cost of any investigation and preparation) incurred in connection therewith. WARP also will indemnify and hold each Indemnified Party harmless against any and all losses, claims, damages or liabilities to any such person in connection with or as a result of WARP's petition or appeals of the WAGA assessment of the WARP portion of the SeaBright premium or any other matter related to this Assignment Agreement. If any action or proceeding brought by a third party is brought against any Indemnified Party, WARP shall be entitled to assume the defense of any such action or proceeding with counsel reasonably satisfactory to the Indemnified Party. Upon assumption by WARP of the defense of any such action or proceeding, the Indemnified Party shall have the right to participate in such action or proceeding and to retain its own counsel but WARP shall not be liable for any legal expenses of other counsel subsequently incurred by such Indemnified Party in connection with the defense thereof unless: (i) WARP has agreed to pay such fees and expenses, (ii) WARP has failed to employ counsel reasonably satisfactory to the Indemnified Party in a timely manner or (iii) the Indemnified Party has been advised by counsel that there are actual or potential conflicting interests between WARP and the Indemnified Party, including situations in which there are one or more legal defenses available to the Indemnified Party that are different from or additional to those available to WARP. WARP shall not consent to the terms of any compromise or settlement of any action or proceeding for which WARP has assumed the defense without the prior written consent of the Indemnified Party, unless such compromise or settlement: (i) includes an unconditional release of the Indemnified Party from all liability arising out of such action and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party. WARP shall not be required to indemnify any Indemnified Party for any amount paid or payable by any Indemnified Party in the settlement of any action, proceeding or investigation without the written consent of WARP, which consent

shall not be unreasonably withheld. The reimbursement and indemnity obligations of WARP under this paragraph shall be in addition to any liability which WARP may otherwise have, and shall be binding upon and inure to the benefit of any successors and assigns of WARP and any such Indemnified Party. WARP also agrees that no Indemnified Party shall have any liability to WARP or any person asserting claims on behalf of WARP in connection with or as a result of WARP's petition or appeals of the WAGA assessment of the WARP portion of the SeaBright premium, or any other matter related to this Assignment Agreement.

8. Each party acknowledges that this Assignment Agreement sets forth the entire agreement and understanding of the parties with respect to this Assignment Agreement and that no oral or other agreements, understandings, representations, or warranties, other than those set forth in this Assignment Agreement, exist with respect to the subject matter hereof.

9. This Assignment Agreement may be executed by the parties in counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. Transmission of a signed and dated copy of this Assignment Agreement by electronic means shall be fully binding on the transmitting party and shall have the same force and effect as the delivery of a signed original.

10. This Assignment Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The parties agree that any legal action or proceedings with respect to the Assignment Agreement shall be brought in the state or federal courts in Washington State.

11. This Assignment Agreement shall inure to the benefit of and is binding upon the parties, and the party's successors, and assigns.

12. Each party acknowledges that this Assignment Agreement sets forth the entire agreement and understanding of the parties with respect to this Assignment Agreement and that no oral or other agreements, understandings, representations, or warranties, other than those set forth in this Assignment Agreement, exist with respect to the subject matter hereof.

DATED this 2nd day of June, 2014.

SEABRIGHT INSURANCE COMPANY.

WASHINGTON USL&H
ASSIGNED RISK PLAN

By: _____
 /S/

By: _____
 /S/

Its: _____

Its: _____

June 24, 2014

COPY RECEIVED

Paul Anderson
Law Offices of Paul Anderson, PLLC
P.O. Box 48102
Seattle, WA 98166

JUN 30 2014

**LAW OFFICE OF
PAUL L. ANDERSON**

Re: Washington USL&H Assigned Risk Plan
WAGA Assessments
File No. 208.14-2390

Dear Mr. Anderson:

I represent the Washington Insurance Guaranty Association ("WIGA"). This letter responds on behalf of WIGA's board to your June 2, 2014 letter appealing \$153,518.55 of WIGA's \$379,053 assessment to SeaBright Insurance Company ("SeaBright") for the 2012 premium year. WIGA's board understands that the appeal was made by the Washington USL&H Assigned Risk Plan ("WARP") under assignment from SeaBright.

The WIGA board held a special meeting to consider the request made in your June 2 letter. The board members were provided with a copy of your letter, and prior correspondence between your office, WIGA and the Office of the Insurance Commissioner regarding the issue. There was a unanimous consensus among the board members to decline WARP's request for reimbursement.

Under the WIGA statute, SeaBright is a member insurer to which assessments are properly made. RCW 48.32.060(1)(c)(ii). The assessment is based on the net direct written premium for the calendar year preceding the assessment – in this case, for the year 2012. WIGA based the assessment to SeaBright on its net direct written premium on longshore and harbor workers compensation act insurance written in 2012, as reported by SeaBright to the National Association of Insurance Commissioners (NAIC) database. The assessment was made in full compliance with the WIGA statute.

The WIGA board was unable to identify any provision in the WIGA statute that supports WARP's request for reimbursement, or that would support excluding the SeaBright premiums associated with WARP policies from the assessment calculation. The statutory definition of "net direct written premium," on which assessments are calculated, includes no exception for reinsurance or "servicing carrier" type arrangements such as that existing between WARP and SeaBright. Additionally, nothing in the statute suggests that the non-availability of a premium tax credit as described in RCW 48.32.145 limits a member insurer's obligation on an assessment.

Attorneys at Law

A Professional Service Corporation
1325 Fourth Avenue, Suite 2000
Seattle, WA 98101-2570

Telephone (206) 624-1800 Fax (206) 624-3585

Paul Anderson
June 24, 2014
Page 2

WARP's obligation to reimburse SeaBright for the portion of WIGA's assessment to SeaBright based on policies SeaBright wrote for WARP arises under the independent contractual relationship between WARP and SeaBright. WIGA is not a party to that contract. The Board found nothing in the WIGA statute that would make WIGA subject to that contract's terms.

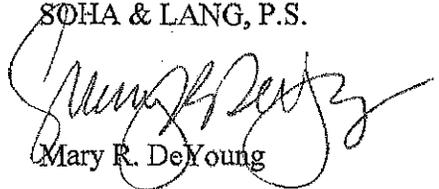
Your letter mentions that, because WARP has agreed to reimburse claims arising against the Eagle Pacific policies issued on behalf of WARP, WARP should not also be asked to pay SeaBright assessments. Again, WIGA was not a party to the contract between WARP and Eagle Pacific Insurance Company. Additionally, WARP's reimbursement payments on the Eagle Pacific claims are made not to WIGA, but to the Lumbermens liquidator, which is Eagle Pacific's statutory and legal successor in interest. WARP would have been contractually obligated to reimburse the claims to the same extent had Eagle Pacific remained solvent. Eagle Pacific's intervening insolvency means only that WARP's reimbursement payments are going to Eagle Pacific's liquidator, rather than to Eagle Pacific itself.

In summary, SeaBright's obligation to pay assessments made by WIGA is based on the WIGA statute, not on the contract between SeaBright and WARP. As a statutory entity, WIGA is constrained to act within the authority of the WIGA statute. Since the WIGA board determined that the assessment to SeaBright for premium based on policies SeaBright wrote for WARP is fully consistent with the WIGA statute, the Board must decline WARP's reimbursement request.

Please let us know if you have any questions.

Sincerely,

SOHA & LANG, P.S.



Mary R. DeYoung

Cc: David C. Edwards, Executive Director, Washington Insurance Guaranty Association
Lorraine Segedie, Controller, Washington Insurance Guaranty Association
William Clumpner, board chairman, Washington Insurance Guaranty Association