

Privileged and Confidential

**SECTION 401 CERTIFICATION/
SECTION 404 PERMIT TIMELINE**

DATE	ACTION
1997	
Dec. 18, 1997	Port submits Joint Aquatic Resources Project Application ("JARPA") to Army Corps of Engineers requested Section 404 permit to fill wetlands associated with proposed Airport expansion project
Dec. 19, 1997	Corps of Engineers issues public notice of Port's Section 404 permit application and solicits comments until Jan. 20, 1998; Department of Ecology issues notice of Port's application for Section 401 water quality certification and solicits comments until Jan. 20, 1998
1998	
Jan. 19, 1998	ACC submits comments to Corps of Engineers recommending denial of Section 404 permit and requesting a public hearing on the Port's application
Jan. 20, 1998	ACC submits comments to Department of Ecology recommending denial of Section 401 certification
Jan. 22, 1998	U.S. Fish and Wildlife Service submits comments to Corps of Engineers recommending denial of Section 404 permit due to inadequacy of Port's proposed out-of-drainage basin wetlands mitigation plan
Feb. 3, 1998	U.S. EPA Region 10 submits comments to Corps of Engineers recommending denial of Section 404 permit because project fails to comply with Section 404 guidelines including failure to "identify appropriate compensatory mitigation"
Mar. 6, 1998	Corps of Engineers issues addendum/errata to public notice scheduling public hearing for Apr. 9, 1998 on Port's Section 404 permit and Section 401 certification applications
Apr. 6, 1998	ACC sends letter to Corps of Engineers requesting inclusion of ACC cities in all future meetings between Port and Corps of Engineers; ACC sends letter to U.S. EPA Region 10 requesting meeting to discuss Port's Section 404 permit application
Apr. 9, 1998	Corps of Engineers and Department of Ecology convene public hearing on Port's application for Section 404 permit/Section 401 certification; ACC representative testifies at hearing
Apr. 14, 1998	ACC sends follow-up letter to U.S. EPA Region 10 again requesting meeting to discuss Port's Section 404 permit application
Apr. 20, 1998	ACC submits additional written comments to Corps of Engineers recommending denial of Section 404 permit including possible locations for same-watershed mitigation alternatives

DATE	ACTION
May 6, 1998	ACC meets with staff of Corps of Engineers Regulatory Branch re: potential same-watershed wetlands mitigation sites
June 1, 1998	ACC representatives and consultant (Adolfson & Assoc.), Corps of Engineers representatives and Port consultant (Jim Kelley, Parametrix) go on site visit to potential same-watershed wetlands mitigation sites
July 15, 1998	Port issues Amended Wetland Mitigation Plan adding several "in-basin" mitigation elements including baseflow augmentation of Des Moines Creek, improvements to Miller Creek channel and aquatic habitat, increased stormwater management, establishment of protective buffers, removal of consumptive water uses, enhancement of Miller Creek/Lora Lake floodplain, establishment of a \$300,000 trust fund for aquatic habitat improvements
July 16, 1998	Corps of Engineers sends letter to FAA Northwest Mountain Region requesting reconsideration of position prohibiting habitat mitigation in watersheds affected by proposed Sea-Tac Airport expansion
July 20, 1998	Department of Ecology issues Section 401 water quality certification to Port requiring adherence to specified conditions
Aug. 7, 1998	ACC meets with Corps of Engineers Regulatory Branch staff re: issues related to consideration of Port's Section 404 permit application including Port's proposed out-of-watershed mitigation
Aug. 14, 1998	Port discloses that additional wetlands (exact acreage still unknown) will have to be filled for airport expansion project and Port will have to "modify" its Section 404 permit application; Corps of Engineers staff and Department of Ecology staff acknowledge that Port will have to submit revised application for Section 401 certification and Section 404 permit requiring new public notice and additional public hearing; ACC submits report to Corps of Engineers prepared by Adolfson & Assoc. on potential same-watershed wetlands mitigation sites
Aug. 19, 1998	Port files appeal with Washington Pollution Control Hearings Board challenging conditions on Section 401 certification imposed by Department of Ecology
Sept. 2, 1998	FAA Northwest Mountain Region responds to Corps of Engineers July 16 letter and states that "except under exceptional circumstances, wetlands should not be created within 10,000 feet of an airport that services jet aircraft"
Sept. 11, 1998	Port issues Determination of Non-Significance under SEPA for proposed airport wetlands mitigation project to be located in Green River watershed, City of Auburn

DATE	ACTION
Sept. 21, 1998	Department of Ecology sends Port letter documenting "serious shortcomings" in the Port's revised wetlands mitigation proposal including the Port's failure to disclose it did not own or control water right to a well it proposes to use as part of its baseflow augmentation plan for Des Moines Creek and denying the Port's request for extension of time to meet two conditions outlined in Section 401 water quality certification including requirement that Port submit a comprehensive stormwater management plan by Sept. 21, 1999; Department of Ecology concludes Port is "out of compliance" with the terms of the Section 401 certification
Oct. 20, 1998	Port of Seattle withdraws its original application for Section 401 water quality certification; Department of Ecology revokes certification
1999	
May 19, 1999	Port to meet with Corps of Engineers, Department of Ecology and other relevant agencies for Section 404 pre-application conference
June or July 1999	Port to submit revised applications for Section 401 certification and Section 404 permit
July or Aug. 1999	Corps of Engineers to issue public notice announcing Port's application for Section 401 certification and Section 404 permit and schedule public hearing
Aug. or Sept. 1999	Corps of Engineers to convene public hearing on Port's application for Section 401 certification and Section 404 permit
Throughout 1999	ACC continues to monitor Corps of Engineers and Department of Ecology on a regular basis and to communicate with staff on status of wetlands delineation and agency policy concerns
Late 1999	Corps of Engineers and Department of Ecology decide whether to prepare an SEIS under state law (SEPA) or federal law (NEPA)
2000	
Jan. or Feb. 2000	Corps of Engineers likely to issue Section 404 permit; Department of Ecology likely to issue Section 401 certification (<i>if no SEIS is required</i>)
Spring – Summer 2000	Preparation and release of SEIS (if required)
Mar. or April 2000 (Autumn 2000 if SEIS required)	Appeal of Section 401 water quality certification may be filed by "[a]ny person aggrieved" by the Order issuing the certification "may obtain review thereof by appeal within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board" (emphasis added)

ACC LITIGATION 1999

FORUM

ACTION

DEFENDANT

STATUS

