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SEP 17 2002  
ENVIRONMENTAL  
HEARINGS OFFICE

SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

PORT OF SEATTLE, a port district of the State  
of Washington,

Petitioner,

v.

THE POLLUTION CONTROL HEARINGS  
BOARD, an agency of the State of Washington;  
AIRPORT COMMUNITIES COALITION; and  
CITIZENS AGAINST SEATAC EXPANSION;

Respondents,

v.

STATE OF WASHINGTON, DEPARTMENT  
OF ECOLOGY, an agency of the State of  
Washington,

Respondent Below.

Honorable Bruce Hilyer

NO. 02-2-25658-9 SEA

DECLARATION OF ROGER PEARCE  
SUPPORTING PORT'S APPLICATION  
FOR DIRECT REVIEW AND REQUEST  
FOR CERTIFICATE OF  
APPEALABILITY

Roger A. Pearce declares as follows:

1. Identity of Declarant. I am one of the attorneys representing petitioner Port of Seattle in this action. I am over the age of eighteen, have personal knowledge of the facts stated in this declaration, and am competent to testify to those facts.

2. Declaration of Gina Marie Lindsay. Attached as Exhibit A to this declaration is the Declaration Of Gina Marie Lindsay, the Director of the Seattle-Tacoma International Airport.

DECLARATION OF ROGER PEARCE - 1

FOSTER PEPPER & SHEFELMAN PLLC

1111 THIRD AVENUE, SUITE 3400

SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

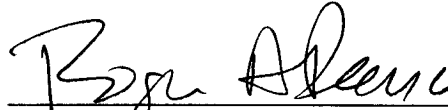
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1 That declaration was filed in the underlying quasi-judicial administrative action before the  
2 Pollution Control Hearings Board and is a part of the administrative record from that  
3 administrative proceeding. The exhibits to the Lindsay declaration have not been included.

4 3. Partial Verbatim Report of Proceedings. Attached as Exhibit B to this declaration is  
5 a portion of the Verbatim Report of Proceedings before Hon. Richard S. Hicks, Superior Court  
6 Judge, in Thurston County Case No. 01-2-02386-9.

7  
8 I declare under penalty of perjury under the laws of the state of Washington that the  
9 foregoing is true and correct.

10 Executed at Seattle, Washington, this 16<sup>th</sup> day of September 2002.

11  
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13 \_\_\_\_\_  
14 Roger A. Pearce



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POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION

Appellant,

v.

DEPARTMENT OF ECOLOGY and  
THE PORT OF SEATTLE,

Respondents.

No. PCHB 01-0133

DECLARATION OF GINA MARIE  
LINDSEY

GINA MARIE LINDSEY declares as follows:

1. I am the Director of Seattle-Tacoma International Airport ("STIA") and have served in that capacity since September 1993. I am over the age of 18, have personal knowledge of the facts set forth in this declaration, and would be competent to testify to them if necessary.

2. Part of my current job responsibilities include evaluating the ability of STIA to meet the needs of the Puget Sound region in terms of air freight and commercial airline capacity in a timely and effective manner. Where deficiencies are identified, my job is to assemble and present the Commissioners of the Port of Seattle with a plan to correct the deficiencies and to prepare an implementation strategy and timetable for the necessary facility improvement. The Master Plan Update process conducted by the Port has served as a principal means to identify and correct deficiencies at STIA.

**AR 000358**

1           3.     STIA currently faces immense challenges and deficiencies. It plays a crucial role in  
2 the region's transportation infrastructure, namely to provide the needed capacity for individuals to  
3 travel and for goods to move to and from this region. STIA thus serves an indispensable role for the  
4 travelling public and region's businesses.

5           4.     STIA's current deficiencies urgently require immediate corrective action. These  
6 deficiencies include, but are not limited to:

- 7           —     delays in aircraft arrivals and departures that occur in poor weather conditions when  
8                   only one runway can be used;
- 9           —     inadequate parking facilities to address existing and projected demand;
- 10          —     inadequate road access for south airport traffic; and
- 11          —     inadequate terminal facilities to accommodate existing and projected passengers.

#### 12     **The Master Plan Update Projects**

13           5.     The purpose of the Port's Master Plan Update projects was succinctly stated by the  
14 Federal Aviation Administration (FAA) in its 1997 Record of Decision on this project:

15                    "As documented in ... the Final Environmental Impact Statement, ... the present runway  
16                    configuration, with two closely-spaced runways, is currently responsible for significant  
17                    airside delays, particularly during poor weather conditions, and is forecast to be responsible  
18                    for increasing such delays in the future."

19           As approved by both the Puget Sound regional planning authorities and by the FAA, the Port is  
20 proposing to reduce existing and future airport delays by constructing improvements pursuant to a  
21 Master Plan Update adopted by the Port and the FAA in 1997. These improvements include the  
22 following: a new 8,500-foot parallel air-carrier runway located west of the existing runways; a 600-  
23 foot extension of Runway 34R; extension of runway safety areas ("RSAs") at the ends of the  
24 existing runways; terminal improvements and expansion including the development of a new  
25 terminal, parking, and access improvements north of the existing terminal; the South Aviation  
26 Support Area (SASA) to accommodate aircraft line maintenance and air cargo facilities; and  
relocation, redevelopment, and expansion of support facilities.

**AR 000359**

1           6.       Some of the Master Plan Update projects will involve the discharge of fill material  
2 into waters of the U.S., which requires a §404 permit from the U.S. Army Corps of Engineers. This,  
3 in turn, triggered the need for a §401 certification from Washington State Department Ecology. It is  
4 important to note that the Port's planned improvements at STIA include a wide range of projects,  
5 only some of which involve discharges into waters of the U.S. For example, the Port is  
6 implementing extensive terminal, ground transportation, and other improvements that involve no  
7 discharge of fill material into waters of the U.S., and thus do not require §404 approval or §401  
8 certification.

9           7.       Pursuant to the FAA-approved Master Plan Update, the Port has begun improvements  
10 at STIA in upland areas where §404 permit or §401 approvals are not required. Some of these  
11 improvements, such as expansion of the parking garage, are unrelated to any projects that require  
12 §404 approval. Other improvements, such as the placement of fill in upland areas for the Third  
13 Runway, are related to projects that require §404/401 approval. In beginning these improvements,  
14 the Port recognizes that this construction is being done at the Port's risk. The need for these  
15 improvements is so great, and the time constraints so severe, that the Port concluded that  
16 construction must begin without delay.

17           8.       With regard to those aspects of its improvements that do involve discharges of fill  
18 material into waters of the U.S., the Port has proposed extensive mitigation to restore and address  
19 impacts to existing wetlands, to protect streams, to develop new wetlands, and to construct  
20 stormwater facilities that will detain and treat stormwater. For example, the Port proposes to restore  
21 wetlands at the Vacca Farm site just west of the new runway and at the Tye Valley Golf Course just  
22 south of the runways, and to establish and preserve vegetated riparian buffers on Miller and Des  
23 Moines Creeks to protect instream habitat and water quality. Mitigation actions at the Vacca Farm  
24 site are designed to provide approx. 17 acres of aquatic and riparian habitats, including 6.60 acres in  
25 wetland restoration; 5.70 acres in wetland mitigation; and 4.85 acres of buffer mitigation. Projects in  
26

**AR 000360**

1 the Des Moines Creek basin are designed to restore wetlands and stream functions. Approx. 4.5  
2 acres of wetland mitigation will occur in the Tyee Valley mitigation area and approx. 1.0 acres will  
3 occur in the west branch Des Moines buffer. Approximately 5 acres of buffers will be established  
4 along Des Moines Creek at the Tyee Valley site.

5 9. The Port will provide mitigation to the Miller Creek aquatic habitat, by providing  
6 instream habitat and increased channel length, and will create a trust fund for improvements to the  
7 Miller and Des Moines Creek watersheds. In addition, the Port will eliminate residential,  
8 commercial, and agricultural uses in the Miller, Walker, and Des Moines Creek basins that are  
9 currently contributing pollutants to those creeks.

10 10. The Port will also construct wetland mitigation off-site on a 67-acre parcel in the City  
11 of Auburn, especially for mitigation of wildlife habitat functions. Approximately 17.2 acres of  
12 forested wetlands, 6 acres of shrub wetlands, 6.2 acres of emergent wetlands, 0.6 acres of open  
13 water, and 19.5 acres of emergent wetland habitat will be created or restored. Overall habitat  
14 functions of these wetlands will be protected by providing approximately 11.9 acres of forested  
15 buffers around the perimeter of the site and approximately 4.0 acres of upland habitat within the  
16 inner portion of the Auburn site.

17 11. In addition, the Port proposes to replace the water storage function of the impacted  
18 wetlands, as well as replace the water quality treatment functions of those wetlands. The Port also  
19 proposes to construct the third runway embankment in a manner that includes an internal drainage  
20 layer to maintain recharge and natural groundwater flow. The Port will maintain existing low stream  
21 flows using stored stormwater and provide new floodplain storage to replace any storage eliminated  
22 for construction of the third runway embankment.

23 **Prior Litigation Upholds Master Plan Projects and Port's Extensive Mitigation.**

24 12. In addition to the extensive stormwater, water quality and wetland mitigation  
25 discussed above in connection with the §401 Certification and §404 permit process , and as

26 **AR 000361**

1 specifically recognized in the earlier court decisions regarding the Port's overall Master Plan Update  
2 projects, the Port is providing extensive mitigation for noise impacts, air quality impacts,  
3 construction impacts, land use impacts, transportation impacts, and other mitigation for the impacts  
4 of the planned development at STIA.

5 13. The Airport Communities Coalition (ACC) has brought a string of lawsuits  
6 challenging every agency and Port decision related to the third runway and Master Plan Update  
7 improvements at STIA. Not surprisingly, the goal of the ACC, as stated in the Interlocal Agreement  
8 forming the ACC, is "To stop the construction of any additional runways at Seattle Tacoma  
9 International Airport." A copy of the Interlocal Agreement forming ACC is attached as Exhibit A to  
10 this declaration.

11 14. In one action, the ACC challenged the decision of the Puget Sound Regional Council.  
12 The PSRC is the regional transportation planning body for the Puget Sound region. As described in  
13 more detail below, the PSRC had decided, by overwhelming majority vote, to include plans for a  
14 third runway in the Regional Transportation Plan. That decision was appealed by ACC. The PSRC  
15 decision was upheld by the King County Superior Court, and was further upheld on appeal by the  
16 Washington State Court of Appeals Division One in Case No. 42306-1-I. A copy of the Division  
17 One opinion is attached as Exhibit B to this declaration.

18 15. The ACC also challenged the Port's decision to proceed with the Master Plan Update  
19 projects, the Port/FAA environmental review for that decision, and the decision of the Central Puget  
20 Sound Growth Management Hearings Board (the Board has determined that STIA was an essential  
21 public facility and that ACC member Des Moines could not attempt to prohibit STIA expansion by  
22 passing anti-third runway provisions in its comprehensive plan). The King County Superior Court  
23 also upheld all those decisions, and made specific findings regarding the extensive mitigation  
24 provided by the Port as part of the Master Plan Update projects. A copy of that King County Court  
25 decision is attached as Exhibit C to this declaration. That decision was upheld by Division One of  
26

**AR 000362**



1 the Washington State Court of Appeals in Case No. 43100-5-I. A copy of that Division One opinion  
2 and the Order Granting Motion For Reconsideration In Part And Amending Opinion are attached as  
3 Exhibit D to this declaration.

4 16. Approval of the Federal Aviation Administration ("FAA") was also required for the  
5 third runway and other Master Plan Update improvements. On July 3, 1997, the regional  
6 administrator for the FAA's Northwest Mountain Region issued the FAA's Record of Decision  
7 approving the project -- Record of Decision for the Master Plan Update Development Action Sea-  
8 Tac International Airport (July 3, 1997) (the "ROD"). The ROD provides appropriate mitigation for  
9 several distinct aspects of the project. The review in the ROD was based upon the EIS and included  
10 a list of mitigation measures for the Port covering air, water quality, stormwater, construction,  
11 groundwater, and hydrology issues.

12 17. The ROD also contained an analysis of the impacts of the project and a list of  
13 mitigation measures required by the FAA. As required by federal law, the ROD concluded that "all  
14 practical means to avoid or minimize environmental harm have been adopted through appropriate  
15 mitigation planning." (ROD at p. 44). The ROD also set forth additional monitoring and  
16 enforcement programs. The ROD mitigation measures include noise, land use, archeological,  
17 cultural and historic resources, social and induced socio-economic impacts, air quality, water quality,  
18 construction, erosion and sedimentation control, wetlands, flood planes, surface transportation,  
19 plants and animals, services/utilities, earth, hazardous substances, and construction impacts. In  
20 Appendix F, the ROD includes a graphic summary of the mitigation measures required by the FAA  
21 based on the FEIS/FSEIS. A copy of the ROD is attached as Exhibit E to this declaration. The ACC  
22 appealed the ROD to the Ninth Circuit Court of Appeals, which upheld the FAA's ROD in Ninth  
23 Circuit Case No 97-70953 (November 24, 1998 Memorandum Opinion). A copy of that unpublished  
24 Ninth Circuit opinion affirming the ROD is attached as Exhibit F to this declaration.

25  
26 **AR 000363**

1 **The Public Process Leading to Project Recommendation.**

2 18. The proposal to construct a third runway and other improvements at STIA was  
3 arrived at after years of study, debate, and decision-making by governmental bodies and elected  
4 officials in the Puget Sound region.

5 19. In 1989, the Puget Sound Regional Council and the Port appointed the 39-member  
6 Puget Sound Air Transportation Committee ("PSATC"), with representatives from cities and  
7 counties throughout the region, aviation industry experts, citizens, and the State of Washington. The  
8 purpose of the PSATC was to develop a regional solution to the region's worsening air traffic  
9 capacity problem. The PSATC reviewed a wide range of options, including replacement airports,  
10 supplemental airports, new technologies, demand management, and high-speed rail. The PSATC  
11 prepared a programmatic environmental impact statement ("EIS") examining the potential  
12 environmental impacts of the studied alternatives.

13 20. In 1992, the PSATC issued its final report and final EIS, recommending a multiple  
14 airport system that included a third air carrier runway at STIA. In accordance with the PSATC  
15 recommendation, the Port prepared a comprehensive update to its Master Plan to address the long-  
16 term facility needs at the airport.

17 21. At the same time, the Port and the FAA entered into a memorandum of agreement to  
18 jointly prepare a project-specific EIS that would meet the requirements of both the National  
19 Environmental Policy Act and the State Environmental Policy Act. The Draft EIS for the Proposed  
20 Master Plan Update Development Actions at STIA was issued in April 1995, and the Final EIS was  
21 issued in February 1996. Subsequently, in response to new and higher forecasts of aviation demand,  
22 the Port and the FAA prepared and issued a supplemental EIS. The Draft Supplemental EIS for  
23 Proposed Master Plan Update Development Actions was issued in February 1997, and the Final  
24 Supplemental EIS was issued in May 1997.

25 22. Simultaneously with these EIS processes, the Puget Sound Regional Council  
26 undertook a review and decision process culminating in the adoption of PSRC Resolution A-93-03

1 which stated: "That the region should pursue vigorously, as the preferred alternative, a major  
2 supplemental airport and a third runway at STIA." The PSRC then conducted, over the course of a  
3 year, an evaluation and public review of twenty-six existing and potential new airport sites. The  
4 PSRC concluded in October 1994 that a supplemental airport was not feasible. Following further  
5 deliberations, in July 1996, the PSRC amended the Metropolitan Transportation Plan to include a  
6 third runway at STIA.

7 23. In 1996, the Port submitted to the Army Corps of Engineers a Joint Aquatic  
8 Resources Permit Application (JARPA) for a §404 permit and §401 certification and, in 1997, the  
9 Army Corps of Engineers issued a public notice of the Port's application. In April 1998, the Corps  
10 and Ecology conducted the first of three joint public hearings on the application. A significant  
11 number of public comments were submitted to the Corps and Ecology, and the Port prepared  
12 detailed written responses to the comments. In July 1998, following in-depth review of the permit  
13 application, Ecology issued a §401 certification for the project subject to a 19-page list of conditions.

14 24. During this time period, the Port was acquiring properties on the west side of STIA  
15 necessary for construction of the new runway. After acquiring the properties and conducting on-the-  
16 ground wetland delineations, the Port discovered more wetlands than previously estimated from  
17 aerial photos and distant observations from nearby rights-of-way. Accordingly, in September 1999,  
18 the Army Corps of Engineers issued a revised public notice, which reinitiated Ecology review of the  
19 §401 certification request. The Army Corps of Engineers and Ecology conducted another public  
20 hearing. Again, extensive public comments were submitted, and the Port again prepared detailed  
21 written responses to those comments.

22 25. Ecology's reinitiated §401 review was even more extensive than its original review.  
23 Ecology contracted with King County to review the Port's proposed stormwater management plan in  
24 accordance with the requirements of the King County Surface Water Design Manual. King County  
25 conducted a multi-year review of the plan, involving thousands of hours of hydrologic modeling and  
26

1 expert review, culminating in King County's recent approval of a revised stormwater management  
2 plan. Ecology also contracted with Pacific Groundwater Group to conduct a study of the potential  
3 impacts of the proposed runway embankment on aquifers, wetlands and streams in Miller, Walker,  
4 and Des Moines Creeks basins, culminating in the *Sea-Tac Runway Fill Hydrologic Studies Report*  
5 (2000). During this period, the Port was also required to prepare numerous expert reports regarding  
6 wetlands and aquatic resources, including but not limited to the following:

- 7 • *Biological Assessment, Master Plan Update Improvements, Seattle-Tacoma International*  
8 *Airport (Parametrix 1999)*
- 9 • *Seattle-Tacoma Airport Master Plan Update Low Streamflow Analysis (Earth Tech, Inc. 2000)*
- 10 • *Wetland Functional Assessment and Impact Analysis, Master Plan Update Improvements,*  
11 *Seattle-Tacoma International Airport (Parametrix 2000)*
- 12 • *Natural Resource Mitigation Plan, Master Plan Update Improvements, Seattle-Tacoma*  
13 *International Airport (Parametrix 2000)*
- 14 • *Subsurface Conditions Data Report 404 Permit Support Third Runway Embankment (Hart*  
15 *Crowser, July 1999)*
- 16 • *Stability Review of RECo 30% Design Third Runway Embankment Project (Draft Memorandum*  
17 *Hart Crowser, November 2000)*
- 18 • *Geotechnical Engineering Analyses and Recommendations Third Runway Embankment (Draft*  
19 *Memorandum Hart Crowser, December 2000)*
- 20 • *Revised Methods and Results of Liquefaction Analysis Third Runway Embankment (Draft*  
21 *Memorandum Hart Crowser, March 2001)*

22 26. In December 2000, the Army Corps of Engineers issued another revised public  
23 notice, inviting further public comment on the application and studies. In January 2001, the Army  
24 Corps of Engineers and Ecology conducted a third public hearing and accepted additional public  
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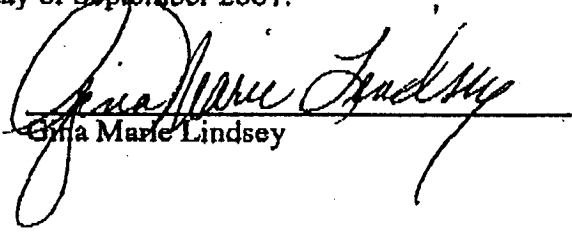
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**AR 000366**

1 comments. Over the life of this permit application, Ecology and the Port have each held numerous  
 2 public meetings and studied hundreds of issues, resulting in the most extensively reviewed §401  
 3 certification ever issued by Ecology.

4 I declare under penalty of perjury under the laws of the State of Washington that the  
 5 foregoing is true and correct.

6 Executed at Seattle, Washington this 27<sup>th</sup> day of September 2001.

7   
 8 Gina Marie Lindsey

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR COUNTY OF THURSTON

-----  
PORT OF SEATTLE, ) Case No. 01-2-02386-9  
Plaintiff, )  
vs. )  
STATE POLLUTION CONTROL )  
HEARINGS, et al, )  
Defendant. )

**COPY**

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BE IT REMEMBERED that on February 22, 2001,  
the above-entitled matter came on for hearing before  
the HONORABLE RICHARD D. HICKS, Judge of Thurston  
County Superior Court.

-----  
VERBATIM REPORT OF PROCEEDINGS  
MOTION TO SET ASIDE  
-----

REPORTED BY: Nichole E. Forrest  
Official Court Reporter, CCR, RPR

1 ~~argument that they're making -- is that there is not~~  
2 identifiable articulable language that specifically  
3 says we do not find the Port has not shown a  
4 substantial probability of success.

5 But if in the reading the overall decision  
6 that was considered, and I can see that that was  
7 considered, then I don't think they have -- even  
8 though it might be better housekeeping -- the  
9 necessity, nor is it reversible error, for them to  
10 have not articulated this statement if the whole  
11 ~~decision correctly reflects what was in front of them.~~

12 So I decline to reverse the Board on this  
13 matter. I hope the matter does go in March. This is  
14 a matter of immense importance not just to the Port of  
15 Seattle but state-wide it seems to me. I can tell by  
16 reading the Board's decision that D.O.E. had several  
17 creative solutions it came up with -- perhaps with  
18 consultants, but adopted by the Department of Ecology  
19 -- that will have a state-wide importance and impact  
20 way beyond the third runway issue at SeaTac. And I  
21 think it should be decided quickly, and then I think  
22 it should be certified to the Supreme Court, if  
23 they'll take it, or the Court of Appeals.

24 I've said this before. Maybe I sound like  
25 I'm trying to make my own life easier, but I don't see



1 any reason for it to tread water and have time out  
2 here when no trial judge, whether it's me or someone  
3 else, will be given any deference on their decision,  
4 because the Court of Appeals or Supreme Court will go  
5 right to the original record as they should.

6 ~~So the quick route out of here is to get the~~  
7 Board, which I'm hoping will revisit this issue of  
8 noncertifying, once they have a final order even  
9 though they've taken the position they're not going to  
10 certify the temporary order. If you guys don't ask  
11 them to do that and they don't do it on their own  
12 motion, we'll put it on our schedule and get to it as  
13 soon as we can.

14 MR. EGLICK: Thank you, Your Honor.

15 MR. REAVIS: May I make one clarification? I  
16 want to clarify the Court's position on the trial in  
17 March because I don't want to hear my statements  
18 reported back to me later on.

19 The Port is wanting to go to trial in March.  
20 We do want to finish it in March. The only reason I  
21 brought up the probability it may not happen is we're  
22 dealing with reality here. We're more than happy to  
23 have time limits set. We want the trial accomplished  
24 in March.

25 ~~THE COURT: I didn't mean it tongue and~~

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SEP 17 2002

ENVIRONMENTAL  
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SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

PORT OF SEATTLE, a port district of the State  
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THE POLLUTION CONTROL HEARINGS  
BOARD, an agency of the State of Washington;  
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v.

STATE OF WASHINGTON, DEPARTMENT  
OF ECOLOGY, an agency of the State of  
Washington,

Respondent Below.

Honorable Bruce Hilyer

NO. 02-2-25658-9 SEA

DECLARATION OF SERVICE

**DECLARATION OF SERVICE**

I, Holly Simmelink, Certified PLS, declare as follows:

I am employed as a legal secretary by Foster Pepper & Shefelman PLLC, in Seattle,  
Washington. I have personal knowledge of the facts set out below and am competent to testify  
about them.

DECLARATION OF SERVICE - 1

FOSTER PEPPER & SHEFELMAN PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400  
COPY

1 On September 16, 2002, a copy of Port Of Seattle's Application For Direct Review To Court Of  
2 Appeals And Request For Certificate Of Appealability From Pollution Control Hearings Board,  
3 Declaration of Roger A. Pearce and this Declaration of Service was sent as service to the  
4 following persons by the means specified below:

5 Kimberly Lockard, Executive Director  
6 Airport Communities Coalition  
7 21630 11<sup>th</sup> Avenue South  
8 Des Moines, Washington 98198  
9 **By First Class Mail**

10 Kelly Evans, Administrator  
11 Airport Communities Coalition  
12 21630 11<sup>th</sup> Avenue South  
13 Des Moines, Washington 98198  
14 **By First Class Mail**

15 Peter J. Eglick  
16 Kevin L. Stock  
17 Helsell Fetterman LLP  
18 1500 Puget Sound Plaza  
19 1325 Fourth Avenue  
20 Seattle, WA 98101-2509  
21 **By Messenger**

22 Rachael Paschal Osborn  
23 2421 W. Mission Avenue  
24 Spokane, WA 99201  
25 **By First Class Mail**

26 Citizens Against SeaTac Expansion  
19900 Fourth Avenue SW  
Normandy Park, Washington 98166  
**By First Class Mail**

Richard A. Poulin  
Smith & Lowney, P.L.L.C.  
2317 East John Street  
Seattle, WA 98112  
**By Messenger**

Tom Fitzsimmons, Director  
Department of Ecology  
300 Desmond Drive  
Post Office Box 47600  
Lacey, WA 98504-7600  
**By First Class Mail**

DECLARATION OF SERVICE - 2

FOSTER PEPPER & SHEFELMAN PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

1 Joan Marchioro  
2 Thomas J. Young  
3 Jeff B. Kray  
4 Office of the Attorney General  
5 Ecology Division  
6 2425 Bristol Court SW (98502)  
7 P.O. Box 40117  
8 Olympia, WA 98504  
9 **By Mail**

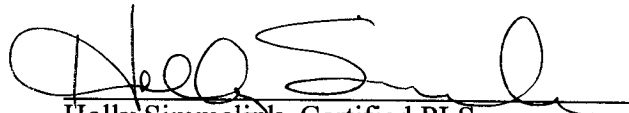
6 Jean M. Wilkinson  
7 Assistant Attorney General  
8 1125 Washington St. S.E.  
9 P.O. Box 40100  
10 Olympia, WA 98504-0100  
11 **By Mail**

10 Christine O. Gregoire  
11 Attorney General  
12 State of Washington  
13 1125 Washington Street SE  
14 Fifth Floor  
15 P.O. Box 40100  
16 Olympia, WA 98504-0100  
17 **By Mail**

14 Pollution Control Hearings Board  
15 Rowe Six, Bldg. 2, MS 40903  
16 4224 6th Avenue SE  
17 P.O. Box 40903  
18 Lacey, WA 98504-0903  
19 **By Messenger**

18 I declare under penalty of perjury under the laws of the state of Washington that the  
19 foregoing is true and correct.

20 Executed this 16<sup>th</sup> day of September 2002, at Seattle, Washington.

21  
22   
23 Holly Simmelink, Certified PLS  
24  
25  
26