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POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,)
Appellant,)
v.)
STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY; and)
THE PORT OF SEATTLE,)
Respondents.)

No. 01-160

DECLARATION OF RACHAEL
PASCHAL OSBORN IN SUPPORT OF
APPELLANTS' MOTION IN LIMINE
TO EXCLUDE TESTIMONY FROM
DAVE GARLAND

(Section 401 Certification No.
1996-4-02325 and CZMA concurrency
statement, Issued August 10, 2001,
Reissued September 21, 2001, under No.
1996-4-02325 (Amended-1))

Rachael Paschal Osborn declares as follows:

1. I am one of the attorneys for Petitioner Airport Communities Coalition ("ACC").

I am over the age of eighteen, have personal knowledge of the matters set forth in this
declaration, and am competent to testify thereto.

2. Attached to my declaration as Exhibit A are true and correct copies of pages 1, 10,
12, and 15 from Department of Ecology's Responses to ACC's Interrogatories and Requests for
Production.

DECLARATION OF RACHAEL PASCHAL
OSBORN IN SUPPORT OF APPELLANTS'
MOTION IN LIMINE RE DAVE GARLAND - 1

HELSELL FETTERMAN LLP
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, WA 98101-2509

Rachael Paschal Osborn
Attorney at Law
2421 West Mission Avenue
Spokane, WA 99201

AR 002348

1 3. Attached to my declaration as Exhibit B is a true and correct copy of Department
2 of Ecology's Supplemental Responses to ACC's Interrogatories and Requests for Production (a
3 Memo from Garland to Ecology counsel).

4 4. Attached to my declaration as Exhibit C are true and correct copies of transcript
5 pages 25-26 from the January 9, 2002, deposition of Dave Garland.

6 5. Attached to my declaration as Exhibit D is a true and correct copy of a January 24,
7 2002, letter from Rachael Paschal Osborn to Tom Young.

8 6. Attached to my declaration as Exhibit E is a true and correct copy of a February
9 15, 2002, e-mail from Rachael Paschal Osborn to Tom Young.

10 7. Attached to my declaration as Exhibit F is a true and correct copy of transcript
11 pages 226-227 from the February 20, 2002, deposition of Ann Kenny.

12 8. Attached to my declaration as Exhibit G are true and correct copies of transcript
13 pages 163 and 246-47 from the February 28, 2002, deposition of Kelly Whiting.

14 9. Attached to my declaration as Exhibit H is a true and correct copy of a March 4,
15 2002, letter from Rachael Paschal Osborn to Tom Young.

16 10. I have received no written responses from Tom Young responding to my letters
17 and e-mail of January 24, February 15, and March 4, 2002.

18 11. In addition to written communications, I queried Tom Young about the content of
19 Dave Garland's testimony on February 5 and February 28, 2002. On both occasions Mr. Young
20

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23
24
25
DECLARATION OF RACHAEL PASCHAL
OSBORN IN SUPPORT OF APPELLANTS'
MOTION IN LIMINE RE DAVE GARLAND - 2

HELSELL FETTERMAN LLP
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, WA 98101-2509


Rachael Paschal Osborn
Attorney at Law
2421 West Mission Avenue
Spokane, WA 99201

AR 002349

indicated that he had been unable to contact the witness and would communicate with me when he obtained more information.

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

DATED this 13th day of March, 2002, at Spokane, Washington.


Rachael Paschal Osborn

g:\u\acc\pohb\osborn-decl-motr\regarland.doc

DECLARATION OF RACHAEL PASCHAL
OSBORN IN SUPPORT OF APPELLANTS'
MOTION IN LIMINE RE DAVE GARLAND - 3

HELSELL FETTERMAN LLP
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, WA 98101-2509

Rachael Paschal Osborn
Attorney at Law
2421 West Mission Avenue
Spokane, WA 99201

AR 002350

RECEIVED
1-8-02
HELSELL
FETTERMAN
SFA
12:00

POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,

Appellant,

v.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY, and THE
PORT OF SEATTLE,

Respondents.

PCHB No. 01-160

ACC'S INTERROGATORIES
NOS. 1-18 AND REQUESTS
FOR PRODUCTION NOS. 1-6
TO DEPARTMENT OF
ECOLOGY **AND RESPONSES
THERE TO**

TO: WASHINGTON STATE DEPARTMENT OF ECOLOGY ("Ecology");

AND TO ITS COUNSEL: Joan Marchioro and Thomas Young, Assistant
Attorneys General

INSTRUCTIONS

Interrogatories. Pursuant to the PCHB's October 30, 2001,
Prehearing Order and to Civil Rules 26 and 33, you are requested to answer
the following interrogatories in writing and under oath and, after you and
your attorney sign them below, to serve a copy upon the undersigned
counsel at the offices of Hellsell Fetterman LLP, 1500 Puget Sound Plaza,

ACC'S INTERROGATORIES NOS. 1-18
AND REQUESTS FOR PRODUCTION
NOS. 1-6 TO DEPT. OF ECOLOGY
AND RESPONSES THERETO - 1

AR 002352

REQUEST FOR PRODUCTION NO. 1: Please produce all documents within your control relating or otherwise pertaining to facts stated in your answer to the preceding interrogatory.

RESPONSE:

See answer to RFP No. 2 and documents previously released through public disclosure.

INTERROGATORY NO. 2: Identify each person you intend to use as an expert witness in this matter.

ANSWER:

Ann Kenny

Erik Stockdale

Kevin Fitzpatrick

Katie Walter

Dave Garland

Ching-Pi Wang

Chung Yee

John Drabeck

Ed O'Brien

Kelly Whiting

INTERROGATORY NO. 3: For each person identified in the preceding interrogatory, state with particularity:

related technical review documents developed both within the agency and by outside consultants in these subject areas. His testimony will be based on his understanding of laws, regulations, policies, and technical issues concerning the subject areas listed above, and his education and experience.

Katie Walter

Ms. Walter will testify regarding wetland related issues associated with her review of the Natural Resource Mitigation Plan (NRMP), and her involvement in developing the § 401 Water Quality Certification. Her testimony will be based on her review of the NRMP and supporting documentation, and meetings with Port representatives, Ecology staff and their representatives, and her education and experience.

Dave Garland:

Mr. Garland will testify regarding his management of two studies regarding Maury Island and the SeaTac Third runway fill, his review of hydrologic impacts on wetlands from excavation of the borrow areas, and his review of the integration of the groundwater modeling performed by the Port for the embankment fill as it relates to the Port's low flow mitigation plan. His testimony will be based on his review, education and experience.

Ching-Pi Wang:

Mr. Wang will testify regarding ground-water flow, soil contamination, contaminant transport in the subsurface, modeling of ground-water flow and contaminant transport, ground-water and soil contamination distribution beneath the airport operations and maintenance area (AOMA), how he analyzed the ground-water flow and contaminant distribution patterns, and how he developed his opinions on the transport of contaminants in the subsurface of the AOMA. The grounds upon which he based his opinions are soil and ground-water quality data, geologic cross-sections, ground-water flow maps, contaminant

4. Ecology guidance regarding § 401 certifications.

Erik Stockdale:

1. The natural resource mitigation plan, and appendices, including design drawings;
2. Wetland delineation report;
3. Wetland function assessment and impact analysis;
4. Wildlife hazard management plan;
5. Various GIS-generated maps;
6. Wetland photographs and maps report.

Kevin Fitzpatrick:

1. The NPDES Permit for Sea-Tac Airport and its corresponding Fact Sheet;
2. The § 401 Water Quality Certification issued to the Port of Seattle for Sea-Tac Airport;
3. Recent declarations he has prepared related to the appeals of the NPDES Permit major modification and the 401 Water Quality Certification;
4. The final Stormwater Management Plan for Master Plan Improvements at Sea-Tac Airport prepared by the Port of Seattle;
5. A variety of documents and e-mails related to the development of acceptable fill criteria which have already been disclosed and turned over to ACC.

Katie Walter:

See attached list, Ex. 1.

Dave Garland:

Ecology will supplement this response when information is received.

EXHIBIT

AR 002356

**DEPARTMENT OF ECOLOGY
NORTHWEST REGIONAL OFFICE
3190 - 160th Avenue S.E.
Bellevue, WA 98008-5452**

Memorandum

January 8, 2002

TO: Tom Young, Assistant Attorneys General
FROM: Dave Garland, Ecology NWRO Water Quality Watershed Unit
RE: Responses to Interrogatory Nos. 3 & 4 and Request for Production No. 2

Interrogatory No. 3:

Subject matters on which the expert is expected to testify

- a. The management and public process associated with the special legislature-commissioned studies; Maury Island Gravel Mine Hydrogeologic Impact Assessment, and Sea-Tac Runway Fill Hydrologic Studies.
- b. Hydrologic impacts of third runway embankment fill
- c. Potential wetland impacts of Borrow Area 3 mining.

Substance of facts and opinions to which expert is expected to testify

- a. The selection of consultants, progress of the studies, and presentation of study results for the Maury Island Gravel Mine Hydrogeologic Impact Assessment and the Sea-Tac Runway Fill Hydrologic Studies were all conducted as open public processes.
- b. The 'slice model' from (PGG, 2000) would be useful in characterizing hydrologic impacts of third runway embankment fill, the initial Earth Tech Low Flow study did not account for variable embankment fill depth, and I recommended that the 'slice model' be integrated along the embankment with respect to fill depth.
- c. Potential wetland impacts of proposed Borrow Area 3 mining can be mitigated by redirecting intercepted water back to the wetland areas using interception trenches.

Summary of grounds for each opinion

- a. The grounds for the opinion that the runway studies followed open public processes are the records of meetings, correspondence, and Ecology Focus Sheets that indicate so.
- b. The basis for these statements are the reports; "*Sea-Tac Runway Fill Hydrologic Studies Report*" (PGG, 2000), "*Sea-Tac Airport Master Plan Update - Low Streamflow Analysis*" (Earth Tech, 2000), and my memo to Ann Kenny and Kevin Fitzpatrick on review of the Earth Tech report dated March 9, 2001.
- c. My recommendations regarding the potential wetland impacts of proposed Borrow Area 3 were superseded by subsequent work performed by Shannon and Wilson consultants. The bases for my initial recommendations were the reports; "*Sea-Tac Runway Fill Hydrologic Studies Report*" (PGG, 2000), and reports by Hart Crowser on Borrow Area mining impacts.

AR 002357

Request for Production No. 2:

The following is a list of all documents I reviewed, produced or relied upon in relation to my involvement with the Sea-Tac Third Runway project:

Pacific Groundwater Group, May 2000. "*Maury Island Gravel Mine Hydrogeologic Impact Assessment*", prepared for Department of Ecology Northwest Regional Office, 63 pages plus tables, figures and appendices A-G.

EVS Environment Consultants, May 2000. "*Maury Island Gravel Mine Impact Study – Nearshore Impact Assessment*", Prepared for Pacific Groundwater Group, 107 pages plus appendices.

Pacific Groundwater Group, June 19, 2000. "*Sea-Tac Runway Fill Hydrologic Studies Report*", prepared with Ecology and Environment and Earth Tech Inc. for Department of Ecology Northwest Regional Office, 79 pages plus tables, figures and appendices.

Earth Tech, December 2000. "*Sea-Tac Airport Master Plan Update - Low Streamflow Analysis*".

Garland, D., March 9, 2001. Memo to Ann Kenny and Kevin Fitzpatrick, on Review of "*Sea-Tac Airport Master Plan Update - Low Streamflow Analysis*" Earth Tech, December 2000.

Garland, D., May 5, 2001. Memo through Kevin Fitzpatrick to Ray Hellwig and Ann Kenny, on Report of Discussion on '*Slice Model Integration*' relating to "*Sea-Tac Airport Master Plan Update - Low Streamflow Analysis*" (Earth Tech, December 2000).

Garland, D., *dates?*. memos on Borrow Area 3.

Hart Crowser, *dates?*. Reports on potential hydrologic impacts of mining Port of Seattle borrow areas.

Interrogatory No. 4: N/A

- end -

AR 002358

EXHIBIT C

AR 002359

BEFORE THE POLLUTION CONTROL HEARINGS BOARD

STATE OF WASHINGTON

AIRPORT COMMUNITIES)
 COALITION,)
 Appellant,)
 v.) PCHB NO. 01-160
 STATE OF WASHINGTON,)
 DEPARTMENT OF ECOLOGY; and)
 PORT OF SEATTLE,)
 Respondents.)

DEPOSITION UPON ORAL EXAMINATION

OF

DAVID GARLAND

9:12 A.M.

JANUARY 9, 2002

1325 FOURTH AVENUE, SUITE 1500

SEATTLE, WASHINGTON

CINDI L. ULLMAN, CCR# ULLMACL5300P

AR 002360

1 engineer, so I don't know how they would go about that, but
2 recommendations like that may have found a way into the
3 401.

4 Q. Do you know whether --

5 A. -- I would think.

6 Q. Are you done? Did you make any other
7 recommendations along these lines?

8 A. I made recommendations, several recommendations
9 in my March 9th memo, Exhibit 107, and I made
10 recommendations in my November 27th, 2000, memo,
11 Exhibit 106, regarding Borrow Area 3.

12 Q. And did you make recommendations in addition to
13 those that are documented in these four exhibits?

14 A. Not that I recall.

15 Q. Have you read the Section 401 certification?

16 A. No.

17 Q. Have you reviewed the December 2001 version of the
18 Port's low streamflow analysis and mitigation plan?

19 A. No.

20 Q. Are you familiar with that document?

21 A. I think it was on my chair this morning, and I
22 listened to voice mail just this morning from Ann Kenny
23 asking me to review it, I think.

24 Q. You think? You're not sure?

25 A. Well, I'm not sure it's the 2001, but ...

1 Q. Did you have any role in reviewing and commenting
2 on that plan?

3 A. On the December 2001?

4 Q. The most recent version of it.

5 A. No. This will be my first involvement since this
6 August 7th, 2001, my production of Exhibit 108.

7 Q. Assuming that the document that's on your chair is
8 the December 2001 version of the low flow plan, what are
9 your plans with respect to review of that timingwise?

10 A. I don't have any plans at this time.

11 Q. Will you review it?

12 A. I think I probably will. I'll talk to Ann Kenny
13 about that.

14 Q. But you don't know when?

15 A. No. My first concern this morning was to negotiate
16 traffic and get down here for this deposition.

17 MS. OSBORN: Okay. So, Tom, we may need to
18 schedule --

19 MR. YOUNG: If we do, we will. Fine.

20 MS. OSBORN: Just make note of that. I may have
21 to do a continuation of the deposition.

22 Q. (BY MS. OSBORN) In your process of reviewing the
23 Slice -- "reintegration of Slice," I guess, is what I would
24 call the PGG effort last spring -- did you review public
25 comments that were submitted to Ecology?

EXHIBIT D

AR 002363

Rachael Paschal Osborn attorney at law
2421 West Mission Avenue Spokane WA 99201
509.328.1087 tel / 509.328.8144 fax
rdpaschal@earthlink.net

January 24, 2002

Tom Young
Attorney General's Office
P.O. Box 40117
Olympia, WA 98504-0117

Re: ACC v. Ecology
Dave Garland Responses to Interrogatories .

Dear Tom:

As you may recall, prior to commencing Dave Garland's deposition on January 9, you provided me with a memo from Mr. Garland to you that you indicated represents supplemental responses to ACC's Interrogatories and Requests for Production concerning Mr. Garland's testimony. Following the deposition, Mr. Garland indicated that these responses may be incomplete, e.g., that he may not have identified all documents he reviewed or relied upon.

I would appreciate your providing me with a letter indicating that these are in fact your complete responses, or with an updated set of responses if appropriate.

In addition, during his deposition Mr. Garland indicated that he had very recently been asked by Ann Kenney to review the Port's December 2001 Low Flow Mitigation Plan. In Mr. Garland's memo to you, he does not indicate that he intends to testify regarding the Low Flow Plan. If in fact Mr. Garland will testify regarding the content of the plan, please supplement your responses to interrogatories so that we may schedule a follow-up deposition on the subject of the Low Flow Plan, as contemplated in the Board's Pre-Hearing Order.

Thank you for your attention to this matter.

Yours very truly,


Rachael Paschal Osborn

cc: Peter Eglick, et al.
Roger Pearce
Richard Poulin

AR 002364

EXHIBIT

AR 002365

Garland

Subject: Garland

Date: Fri, 15 Feb 2002 16:36:01 -0800

From: Rachael Paschal <rdpaschal@earthlink.net>

To: tomy@atg.wa.gov

CC: pearr@foster.com, Peter Eglick <eglick@helsell.com>, Andrea Grad <agrad@helsell.com>

Tom -

As we discussed at the Rozeboom deposition, I am awaiting an answer to my January 24 letter inquiring whether Dave Garland will testify on the Port's low flow mitigation plan. If he is planning to testify, I would like to continue his deposition on that topic. Please advise. Time is short and I believe all of our calendars are very full.

Thank you.

~ Rachael Osborn

Rachael Paschal Osborn, attorney at law <rdpaschal@earthlink.net>
phone 509.328.1087/fax 509.328.8144
2421 W. Mission Ave. Spokane, WA 99201

AR 002366

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AR 002367

POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,)

Plaintiff(s),)

vs.) PCHB No. 01-160

STATE OF WASHINGTON,)

DEPARTMENT OF ECOLOGY; and)

THE PORT OF SEATTLE,)

Defendant(s).)

DEPOSITION UPON ORAL EXAMINATION
OF

ANN E. KENNY

Volume 2

10:00 A.M.

FEBRUARY 20, 2002

1325 FOURTH AVENUE, SUITE 1500

SEATTLE, WASHINGTON

KATHY HAUCK, HA-UC-KK-L4210H

AR 002368

1 the 401 Certification issued to the Port of Seattle,
2 yes or no?

3 A. Yes.

4 Q. With respect to the December 2001 revised Low
5 Flow Plan, is there any other deliverable, other than
6 this validation report, that Ecology is now requiring
7 the Port to provide?

8 A. We will be requiring the Port to submit to us
9 revisions or corrections to that December report that
10 correct the errors in that report.

11 Q. And those revisions will be in response to
12 Mr. Whiting's final conclusions as he sets out in this
13 memorandum that he's going to provide to you; is that
14 right?

15 A. What we require the Port to do will be based
16 on Mr. Whiting's letter. It will also be based on our
17 own technical analysis of the report, the designs, and
18 the water quality issues surrounding the project.

19 Q. Well, other than what Mr. Whiting has done to
20 review that December 2001 Low Flow Plan, has the
21 Department of Ecology conducted any review independent
22 of what Mr. Whiting has done?

23 A. I have Mr. Garland, Dave Garland, reviewing
24 the low flow portion -- I'm sorry, the modeling for the
25 embankment, I have Mr. Abbasi reviewing the

AR 002369

1 technical -- I'm sorry, the design details for the low
2 flow facilities. The information that Kelly gives to
3 us is coming in the form of recommendations, and those
4 recommendations will be utilized by Mr. Abbasi and
5 Mr. Garland to make recommendations to me that I will
6 incorporate in a final letter to the Port.

7 Q. And just so I've got this, you're going to
8 take what Mr. Whiting recommends to you and what
9 Mr. Abbasi recommends to you and what Mr. Garland
10 recommends to you, combine it all in one letter and
11 send that letter to the Port saying that these are the
12 revisions that you need to make to the December 2001
13 Low Flow Plan; is that correct?

14 A. That is my intent.

15 Q. And when do you expect to send that letter to
16 the Port?

17 A. As soon as I can get the letter from Kelly,
18 which as I explained, is uncertain, and then I can get
19 the feedback from Mr. Abbasi and Mr. Garland.

20 Q. What's your best estimate as to when you're
21 going to send that letter?

22 A. Two weeks, maybe, if I'm lucky.

23 Q. Well, that puts it awfully close to the March
24 18th hearing date, doesn't it?

25 A. It will just happen when it happens.

AR 002370

EXHIBIT

AR 002371

POLLUTION CONTROL HEARINGS BOARD

AIRPORT COMMUNITIES COALITION,)

Appellant,)

vs.) PCHB NO. 01-160

DEPARTMENT OF ECOLOGY and THE)
PORT OF SEATTLE,)

Respondents.)

DEPOSITION UPON ORAL EXAMINATION

OF

KELLY WHITING

VOLUME II

8:33 A.M.

FEBRUARY 28, 2002

1325 FOURTH AVENUE, SUITE 1500

SEATTLE, WASHINGTON

MARY L. GREEN, CCR, RPR

CSR NO. GREENML497RZ

AR 002372

1 Q. In the following paragraph, you delineate as
2 you have in previous comments the scope of your review
3 of the low flow report and note that the review of the
4 embankment modeling is performed by Ecology staff with
5 expertise in that area. Can you tell me who at Ecology
6 is performing that review function?

7 A. Dave Garland is the lead reviewer on the
8 embankment modeling work.

9 Q. Is there anyone else to your knowledge?

10 A. Not to my knowledge.

11 Q. In the paragraph starting "review of a
12 stormwater management plan," you state that -- and this
13 is a comment that's appeared before in your review
14 comments -- down there in the middle of the paragraph,
15 "The proposed low-flow mitigations may need to be
16 updated to reflect any change in conditions." Could
17 you tell me what you're thinking of here in terms of
18 what kind of changes or what kind of changes and
19 conditions you're thinking of and then also what kind
20 of updates to the mitigation would be responsive to
21 that?

22 A. Yes. That comment is related to the chance
23 that basin plan capital improvement projects will be
24 constructed in one or more of the basins, which may --
25 which would result in a changed condition and may

1 Q. The final sentence in this annotation says
2 discussion included several reasons why infiltration
3 BMPs will not be implemented. We just discussed one
4 that's contained in an appendix having to do with slope
5 stability. Are there any other reasons?

6 A. Well, cost was thrown out, cost to put in
7 perforated pipe just downstream of these catch basins.
8 There's an opinion that cost will be wasted as these
9 BMPs may plug. Those were the main concerns over the
10 use of these as I recall.

11 Q. Is the latter issue a -- did you say they may
12 plug?

13 A. Yes.

14 Q. So that would in some respects be a
15 maintenance issue; is that right?

16 A. These type of infiltration BMPs are not
17 normally considered highly maintainable. They're sort
18 of very perforated pipe, and they kind of would provide
19 some mechanism to provide infiltration. The primary
20 infiltration will be through these grassed filter
21 strips up on the surface. It's just sort of a backup
22 in case the upper soil surface becomes less
23 infiltrated.

24 Q. Moving on to the next page, page 10. There's
25 discussion starting on page 9 about the embankment

1 model itself, and at the bottom the annotation
2 indicates that these observations were previously
3 discussed with Ecology's technical review lead for the
4 embankment modeling. Is that Dave Garland?

5 A. That is. Yes. That's correct.

6 Q. And when did you discuss these with him?

7 Ballpark is fine.

8 A. I believe the last week of January.

9 Q. In the next section under specific
10 clarifications, at the bottom of the page there's some
11 discussion of the Ecology stormwater manual, and it
12 says that there's not been a determination made by you
13 -- I assume you are the reviewer here --

14 A. Yes.

15 Q. -- as to consistency with the new Ecology
16 manual. Are you planning on making such a
17 determination?

18 A. No, I do not.

19 Q. That's all I've got on that document. I'm
20 going to hand you Exhibit 461, which is your comments
21 on the July 2001 low flow analysis.

22 MS. OSBORN: Off the record.

23 (Discussion off the record.)

24 Q. (BY MS. OSBORN) I've handed you Exhibit
25 No. 461, which is a copy of your -- well, of review

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AR 002376

Rachael Paschal Osborn attorney at law
2421 West Mission Avenue Spokane WA 99201
509.328.1087 tel / 509.328.8144 fax
rdpaschal@earthlink.net

March 4, 2002

Tom Young
Attorney General's Office
P.O. Box 40117
Olympia, WA 98504-0117

VIA FACSIMILE: 360-586-6760

Re: ACC & CASE v. Ecology & Port of Seattle, PCHB No. 01-160
Dave Garland

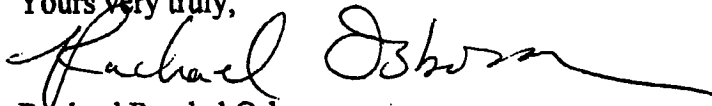
Dear Tom:

This letter confirms our conversation last Thursday, February 28. Dave Garland was unaware at his deposition on January 9 whether he would be testifying regarding the Low Flow plan and Ecology's responses to interrogatories do not indicate that he would do so. Despite my several requests via letter, e-mail and in person, you have not been able to confirm Mr. Garland's activities in this respect. Nonetheless, as indicated by Kelly Whiting, Mr. Garland has in fact been reviewing the Port's December 2001 Low Flow Mitigation Plan on behalf of Ecology.

Per our discussion last week, ACC wishes to depose Mr. Garland, in advance of hearing, regarding his review of the Low Flow Plan. I would appreciate hearing from you at the earliest possible time to learn when this may be accomplished.

Thank you for your attention to this matter.

Yours very truly,


Rachael Paschal Osborn

cc: Peter Eglick, Kevin Stock & Michael Witek
Roger Pearce & Steven Jones
Jay Manning & Gil Reavis
Linda Strout & Traci Goodwin
Richard Poulin

AR 002377

RECEIVED
MAR 14 2002
ENVIRONMENTAL
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POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION)
And CITIZENS AGAINST SEA-TAC)
EXPANSION,)

Appellant,)

v.)

STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY; and)
THE PORT OF SEATTLE,)

Respondents.)
_____)

No. 01-160

CERTIFICATE OF SERVICE

I, Rachel Parks, an employee of Helsell Fetterman LLP, attorneys for the Airport
Communities Coalition, certify that:

I am now, and at all times herein mentioned was, a citizen of the United States, a resident of
the State of Washington, and over the age of eighteen years.

On March 14, 2002, I caused to be hand-delivered by special messenger Appellants'
Motion in Limine to Exclude Testimony of Ecology's Dave Garland, Declaration of Rachael
Paschal Osborn in Support of Appellants' Motion in Limine to Exclude Testimony from Dave

CERTIFICATE OF SERVICE - 1

HELSELL FETTERMAN LLP
1500 Puget Sound Plaza
1325 Fourth Avenue
Seattle, WA 98101-2509

Rachael Paschal Osborn
Attorney at Law
2421 West Mission Avenue
Spokane, WA 99201

AR 002378

1 Garland, and proposed Order Granting Appellants' Motion in Limine to Exclude Testimony of
2 Ecology's Dave Garland in the above matter to:

3
4 Joan Marchioro
5 Thomas Young
6 Jeff Kray
7 Assistant Attorneys General
8 Ecology Division
9 2425 Bristol Court S.W., 2nd Floor
10 Olympia, WA 98504

Linda Strout
Traci Goodwin
Port of Seattle, Legal Dept.
2711 Alaskan Way, Pier 69
Seattle, WA 98111

8 Jay Manning
9 Gillis Reavis
10 Brown, Reavis & Manning
11 1191 Second Avenue, Suite 2200
12 Seattle, WA 98101

Roger Pearce
Steven Jones
Foster Pepper & Shefelman
1111 Third Avenue, Suite 3400
Seattle, WA 98101

12 I certify under penalty of perjury under the laws of the State of Washington that the
13 foregoing is true and correct.

14 DATED this 14 day of March, 2002, at Seattle, Washington.

16 

17 Rachel Parks

18 G:\LU\ACC\PCHB\CERTSERV-031402

19
20
21
22
23
24
25 CERTIFICATE OF SERVICE - 2

HELSELL FETTERMAN LLP
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