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POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,)	
)	PCHB No. 01-160
Appellant,)	
)	PORT OF SEATTLE'S MOTION TO
v.)	COMPEL DEPOSITIONS AND FOR
)	LIMITATION ON ENTRY ONTO LAND
STATE OF WASHINGTON)	
DEPARTMENT OF ECOLOGY, and)	
THE PORT OF SEATTLE,)	
)	
Respondents.)	

The Port of Seattle ("Port"), by and through its counsel of record, moves the Board for an order compelling Petitioners Airport Communities Coalition's ("ACC") to make its identified witnesses available for deposition and to impose limitations consistent with CR 34(b) on any site visit to the Port's property by ACC's witnesses. The Port's motion is supported by a memorandum in support, which has been filed concurrently with the motion. In addition to that memorandum, the Port relies on the Board's Prehearing Order of October 30, 2001, CR 26, CR 34, the Second Declaration of Steven G. Jones and the documents attached to that declaration, and the pleadings and files herein.

I. RELIEF REQUESTED

ACC has requested a site visit on the Port's property. The Port has responded to ACC's request by stating that it is willing to accommodate a site visit, consistent with the requirements set forth in CR 34. In ongoing negotiations with ACC, the Port has outlined conditions consistent

PORT OF SEATTLE'S MOTION TO COMPEL
DEPOSITIONS AND TO LIMIT ENTRY ONTO LAND - 1

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1 with that rule under which such a visit can take place. ACC has rejected the Port's conditions,
2 and in a move designed to delay the discovery schedule in this matter and ultimately to force a
3 delay in the hearing on the merits, ACC has refused to make any of its witnesses available for
4 deposition until the site visit issue is resolved.

5 ACC has not sought an order quashing the Port's subpoenas duces tecum, it has not sought
6 an order protecting its witnesses from having to provide deposition testimony, nor has it brought a
7 motion to compel a site visit. Instead, ACC has unilaterally decided that it will make no witness
8 available for discovery unless the Port complies with ACC's demand for unfettered access to the
9 Port's property by a group of 17 lawyers, client representatives, a paralegal and all of ACC's
10 witnesses. ACC has consistently refused to identify specifically where all of these people wish to
11 go, but instead stated that its experts must be able to sample any wetland, any stream, any
12 stormwater outfall, the entirety of the embankment area, or any stockpiled fill, without restriction.
13 In light of the security concerns arising from the events of September 11, ACC's demands are
14 completely unreasonable.

15 With this motion, the Port seeks an order from the Board compelling compliance with the
16 Board's Prehearing Order compelling ACC to make its witnesses available for deposition. The
17 Port also seeks an order from the Board resolving the dispute over the scope of any site visit and
18 imposing reasonable restrictions on that site visit consistent with the requirements of CR 34(b). In
19 sum, the Port seeks an order:

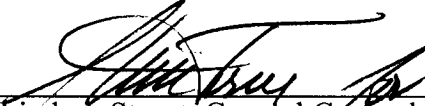
- 20 1. Compelling ACC to make all of its designated witnesses available for deposition
21 according to the currently agreed schedule;
- 22 2. Restricting ACC's access to the Port property in the following particulars:
 - 23 • limiting the number of people that ACC can have visit the Port's property
24 site to a manageable number, i.e., 4-5;
 - 25 • requiring ACC to specifically name who will be attending the site visit;

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- requiring ACC to designate specifically on the Port's property where its experts wish to visit;
- Where the Port is currently providing sampling data routinely to the Department of Ecology, requiring that ACC demonstrate that routine data is not sufficient or is suspect before additional sampling is allowed.
- In those areas where data is not currently being collected by the Port and delivered to Ecology (i.e., fill, wetlands), the Port requests that ACC split samples with the Port, and that any samples taken be obtained pursuant to an agreed sampling protocol.


Respectfully submitted this 14th day of January, 2002.

PORT OF SEATTLE



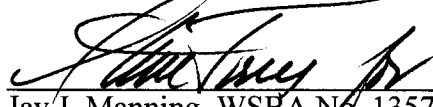
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