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HEARINGS OFFICE

POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION, )

No. 01-160

Appellant, )

DECLARATION OF MICHAEL P.

CITIZENS AGAINST SEA-TAC )  
EXPANSION, )

WITEK IN SUPPORT OF ACC'S

MOTION FOR SUMMARY

Intervenor/Appellant, )

JUDGMENT

(Section 401 Certification No.

v. )

1996-4-02325 and CZMA concurrency

statement, issued August 10, 2001,

STATE OF WASHINGTON, )

Related to Construction of a Third

DEPARTMENT OF ECOLOGY; and )

Runway and related projects at Seattle

THE PORT OF SEATTLE, )

Tacoma International Airport)

Respondents. )

Michael P. Witek declares as follows:

1. I am one of the attorneys for the Airport Communities Coalition. I make this declaration based on personal knowledge and am competent to do so.

2. Attached to this declaration are true and correct copies of the following documents:

Exhibit A: Pages 1, 3, 4 and 14 of the Declaration of William A. Rozeboom in Support of ACC's Motion for Stay, filed with the Board on September 12, 2001;

Exhibit B: Pages 1, 5, 18 and 21 of the Declaration of Dr. John Strand in Support of ACC's Motion for Stay, filed with the Board on September 12, 2001;

DECLARATION OF MICHAEL P. WITEK IN  
SUPPORT OF ACC'S MOTION FOR  
SUMMARY JUDGMENT - 1

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ORIGINAL

AR 005723



**EXHIBIT A**

**AR 005725**

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. 01-133  
DECLARATION OF WILLIAM A.  
ROZEBOOM IN SUPPORT OF ACC'S  
MOTION FOR STAY  
  
(Section 401 Certification No.  
1996-4-02325 and CZMA  
concurrency statement, issued August  
10, 2001, Related to Construction of a  
Third Runway and related projects at  
Seattle Tacoma International Airport)

William A. Rozeboom declares as follows:

1. I am over the age of 18, am competent to testify, and have personal knowledge of the facts stated herein.

2. I am a professional civil engineer licensed in the State of Washington. I am employed as a senior engineer with Northwest Hydraulic Consultants, located at Suite 350, 16300 Christensen Road, Seattle, Washington, 98188. I have over 20 years of specialized experience in surface water hydrology and hydraulics, including over 5 years as principal reviewer of all Master Drainage Plan, Stormwater Management Plan, and Storm Drainage Technical Information Report documents for the 1,300-acre Snoqualmie Ridge project currently under construction in the city of Snoqualmie. The Snoqualmie Ridge project is similar to the 3<sup>rd</sup>

DECLARATION OF WILLIAM A.  
ROZEBOOM - 1

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1 the airport, specifically Des Moines, Miller and Walker Creeks. The most recent (July 2001)  
2 Stormwater Management Plan for airport improvements, unlike the previous November 1999 and  
3 August 2000 versions of the SMP, proposes stormwater detention facilities which should provide  
4 sufficient capacity to mitigate for quantitative airport impacts to peak flows (understanding that  
5 this capacity does not address water quality concerns). However, the airport activities will have  
6 additional impacts to low streamflows which have not been accurately assessed and for which  
7 sufficient mitigation is not assured. The concern is that the project as now proposed will have  
8 the net effect of reducing low flow in some or all of Miller Creek, Walker Creek, and Des  
9 Moines Creek during the late summer period, roughly July through October. Our comments  
10 below focus on low flow issues.

11  
12  
13 5. Storm water flows from the airport and discharges, either directly or through the  
14 storm drain system, by both surface and groundwater flow paths, to Des Moines, Miller and  
15 Walker Creeks. Alterations to the quantity of water in these streams surrounding the airport will  
16 result from activities which change the basin hydrology, the principal activities being: 1) a near-  
17 future increase of approximately 300 acres in the amount of impervious surfaces; 2) expansion of  
18 and improvements to the industrial wastewater system (IWS); and 3) long-term additional  
19 increase in basin impervious surface area consistent with basin land use zoning. Increased areas  
20 of impervious surface will decrease groundwater infiltration and groundwater seepage flow to the  
21 streams. The IWS collects water from areas naturally tributary to the streams surrounding the  
22 airport, and causes that water to bypass the streams and to be discharged directly to Puget Sound.  
23  
24

25 DECLARATION OF WILLIAM A.  
ROZEBOOM - 3

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**AR 005727**

1 Post-1994 expansion and improvements to the IWS, including lagoon linings and other leak  
2 reduction efforts, will further decrease the amount of water infiltrating into the ground and  
3 eventually feeding base flows in the streams. Long-term future land use changes creating  
4 additional impervious surfaces are anticipated from the eventual (per zoning) construction of a  
5 business park in now-forested areas of the Des Moines Creek basin where borrow pits are  
6 proposed to be developed as a major source of fill material for the third runway.  
7

8           6. Low flow depletion in Des Moines, Miller and Walker Creeks is an impact of the  
9 Third Runway Project and Master Plan Updates that is recognized as requiring mitigation in  
10 fulfillment of Section 401 Certification requirements. To that end, the Port has endeavored to  
11 develop a Low Flow Technical Analysis and a low flow mitigation plan, termed the "Flow  
12 Impact Offset Facility Proposal," both of which have been submitted to the Department of  
13 Ecology in draft form only. The Port's conclusions about low flows were encapsulated in a 7-  
14 page letter transmitted from the Port to Ecology on July 23, 2001 under cover of a report entitled  
15 Low Flow Analysis – Flow Impact Offset Facility Proposal (Parametrix, Inc., July 2001). *See*  
16 Exhibit C. Elements of this report were corrected by a July 25, 2001 letter from the Port to  
17 Ecology. *See* Exhibit D. Ecology's Section 401 Certification, issued on August 10, 2001,  
18 references and incorporates this low flow analysis and identifies a number of conditions.  
19  
20

21           7. In analyzing the Port's low flow proposal it is important to keep in mind that the  
22 proposal is unprecedented and that no technical standards exist which are suitable to evaluate the  
23 proposal. There are uncertainties about both the quantity and quality of water proposed to  
24

25 DECLARATION OF WILLIAM A.  
ROZEBOOM - 4

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1 indicated. Flow rates this small, assuming a 5 foot head, would require an orifice with a diameter  
 2 smaller than 0.5 inches. King County normally requires that flow control orifices be no smaller  
 3 than 1.0 inches to minimize the likelihood of blockage. The report provides no assurance that  
 4 constant-release flow controls are feasible for this application.  
 5

6 21. Hence, the low flow mitigation plan is flawed for its dependence on incomplete  
 7 and inaccurate technical analysis that is likely to underestimate the magnitude of low streamflow  
 8 impacts to Des Moines, Miller and Walker Creeks. It is also flawed for its inconsistency with  
 9 other project documents, and its failure to describe design and operational elements of the  
 10 mitigation plan that will directly influence the effectiveness of the proposal in offsetting low flow  
 11 impacts and protecting the instream resource values of these local streams.  
 12

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

15 DATED this 11 day of September, 2001, at Tukwila, Washington.  
 16  
 17

18   
 19 William A. Rozeboom, P.E.  
 20

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22  
 23  
 24  
 25 DECLARATION OF WILLIAM A.  
 ROZEBOOM - 14

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AR 005729

**EXHIBIT**

**AR 005730**



POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION, )

No. 01-133

Appellant, )

DECLARATION OF DR. JOHN  
STRAND IN SUPPORT OF ACC'S  
MOTION FOR STAY

v. )

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

(Section 401 Certification No.  
1996-4-02325 and CZMA concurrency  
statement, issued August 10, 2001,  
Related to Construction of a Third  
Runway and related projects at Seattle  
Tacoma International Airport)

Respondents. )  
\_\_\_\_\_ )

Dr. John Strand declares as follows:

1. I declare the following from personal knowledge and am competent to testify thereto before the Board if necessary.

2. I am an internationally recognized fisheries biologist with over 25 years experience specializing in studies to determine potential effects of human activities on aquatic resources. I received my Ph.D. in Fisheries Biology from the University of Washington in 1975 and currently am the Principal Biologist for Columbia Biological Assessments. I am also an adjunct faculty member of the Environmental Sciences and Regional Planning Program at Washington State University Tri-Cities. I am a Certified Fisheries Professional and have extensive experience assessing the ecological risks from discharges of contaminants to surface

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DECLARATION OF DR. JOHN STRAND IN  
SUPPORT OF ACC'S MOTION FOR STAY - 1

**AR 005731**

1 mitigation and natural mitigating factors. Finally, in the context of addressing low flows on the  
2 project streams, the Port's management approach to monitor the quality of detained or discharged  
3 stormwater, and only when a problem is encountered, take steps to mitigate impacts, doesn't  
4 provide reasonable assurance that valued aquatic resources will not be impaired.  
5

6 7. Although disturbed, the project streams (Miller Creek, Walker Creek, Des Moines  
7 Creek, Gilliam Creek) still support a diverse and abundant fish fauna and are worthy of  
8 protection. Both coho and chum salmon are known to spawn and rear in Miller Creek, Walker  
9 Creek, and Des Moines Creek. (Hillman et al. 1999). Chinook salmon frequent the outfalls of  
10 Miller and Des Moines Creeks in Puget Sound during their outmigration (Parametrix 2000a).  
11 Both the Miller Creek and Des Moines Creek Watersheds are also exploited by resident cutthroat  
12 trout (Parametrix (2000a); Miller Creek may include an anadromous race of cutthroat trout.  
13 Warm water fish species including yellow perch, black crappie, largemouth bass, and  
14 pumpkinseed sunfish have been found in the upper reaches of both watersheds (Parametrix  
15 2000b). Prickly sculpin, three-spined stickleback, and crayfish also occur throughout each  
16 watershed (Parametrix 2000b). Gilliam Creek supports many of the same species of fish as  
17 found in Miler Creek, Walker Creek and Des Moines Creek. Of considerable interest and  
18 importance is the recent finding of juvenile Chinook salmon in Gilliam Creek (personal  
19 communication, April 2000, Ryan Partee, City of Tukwila, Tukwila, Washington). Chinook is a  
20 listed species under the Endangered Species Act.  
21  
22  
23  
24  
25

DECLARATION OF DR. JOHN STRAND IN  
SUPPORT OF ACC'S MOTION FOR STAY - 5

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**AR 005732**

1 Northwest Hydraulic Consultants, Seattle, Washington (also working on behalf of ACC and  
2 submitting comments), some of the proposed detention facilities that are to be used in this way  
3 do not have “dead storage” capacity for reserve storm water release, with the result the total  
4 proposed storage falls short of the target volumes. Mr. Rozeboom also points out that the  
5 potential mitigating effect of the “fill infiltration discharge” from the proposed runway  
6 embankment to Miller Creek is overestimated, and that the “TWS lagoon lining improvements”  
7 would specifically reduce recharge for Walker and Des Moines Creeks. For these reasons and  
8 others (see the full text of Mr. Rozeboom’s comments, attached to his declaration in support of  
9 ACC’s request for stay), the Port’s conclusion indicating that base lows will not be diminished  
10 beyond the values presented in Table 5 (page 18) of the Biological Assessment – Supplement  
11 (Parametrix 2000) is in serious doubt. Clearly, flow reductions have not been established with  
12 any degree of certainty.

13  
14  
15 33. From a fish or fish habitat perspective, it is my opinion, that if flows in the project  
16 streams fall much below 1.0 cfs, impacts to anadromous as well as resident fish species will  
17 likely occur, and over most of the length of the streams on the project site. If flows diminish,  
18 depths will surely decrease resulting in elevated temperatures and lower dissolved oxygen  
19 concentrations. Fish and other mobile aquatic life could be displaced to other reaches of the  
20 stream where preferred conditions persist. Diminished flow and depth could also limit  
21 movement of fish throughout the stream length and conceivable lead to stranding and mortality  
22 of larger fish.  
23  
24

25  
DECLARATION OF DR. JOHN STRAND IN  
SUPPORT OF ACC'S MOTION FOR STAY - 18

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**AR 005733**

1 based on monitoring alone. Rather, it should be based on a facility design that is well grounded  
2 on scientific principles, a learned assessment of the potential problems, laboratory  
3 experimentation (not experimentation on the streams), and external peer review. See also my  
4 comment letters to Ecology and the Corps dated June 20, 2001 (Exhibit G), and August 6, 2001  
5 (Exhibit H).  
6

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

9 DATED this 11<sup>th</sup> day of September, 2001, at Richland, Washington.

10  
11   
12 John Strand, Ph.D.

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25

DECLARATION OF DR. JOHN STRAND IN  
SUPPORT OF ACC'S MOTION FOR STAY -

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AR 005734

**EXHIBIT C**

**AR 005735**

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. 01-133

DECLARATION OF DR. PETER  
WILLING IN SUPPORT OF ACC'S  
MOTION FOR STAY

(Section 401 Certification No.  
1996-4-02325 and CZMA  
concurrency statement, issued August  
10, 2001)

Dr. Peter Willing declares as follows:

1. I am over the age of 18, am competent to testify, and have personal knowledge of the facts stated herein.

2. My education and experience consists of a Master of Science degree and a Doctor of Philosophy degree, both from the Department of Natural Resources at Cornell University, Ithaca, New York. My graduate work concentrated on the relationships between land use and water quality of lakes and streams. I have taken specialized training courses in Applied Fluvial Geomorphology at the Wildland Hydrology Center, Pagosa Springs, Colorado, and on "Stormwater Treatment:

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DECLARATION OF DR. PETER WILLING IN  
SUPPORT OF ACC'S MOTION FOR STAY-1

AR 005736

1 clarity and convenience. A compilation of the original letters and statements is  
2 attached, and should be consulted for detail and references to literature.

3 Low Flow Augmentation

4 8. The history of the Port of Seattle's inability to propose a reliable and  
5 convincing water source for flow augmentation in Des Moines Creek was one of four  
6 reasons why the Port was forced to withdraw its application for a 401 permit in 1998.  
7 Since then the Port's iterative analyses of the low flow behavior of the streams has led  
8 to expansion of the flow augmentation scheme to include the Miller and Walker Creek  
9 basins as well as Des Moines Creek. The following is a brief chronology of the Port's  
10 flow augmentation proposals:  
11

- 12 • In July 2000, the Port's "preferred option" for augmentation was to use water  
13 from a Port-owned well. In August the Port maintained the preference for the  
14 well source, but also discussed Seattle Public Utilities water as an alternative.  
15 By September 2000, the Port had decided that "the primary source is water  
16 from Seattle Public Utilities."
- 17 • By December 2000 the Port's plan had reverted to the existing Port-owned well  
18 on the Tyee Golf Course as the source of augmentation water. However, in  
19 different documents at that same time, the Port also proposed to construct  
20 additional storage facilities that would hold stormwater for augmenting dry  
21 season low stream flows. In January 2001 the port was still "investigating other  
22 sources of water in the [Des Moines Creek] basin."
- 23 • Sometime after January 2001, the stormwater storage concept gained currency  
24 as the favored mode of flow augmentation. However, it required substantial  
25 retrofitting and revision of the December 2000 Stormwater Management Plan  
because the announced volumes of required stormwater storage did not agree  
with the volumes shown on the plans for individual detention facilities.  
Revisions continued with the July 2001 "Low Flow Analysis/flow Impact Offset

1 Facility Proposal,” the most current rendition of the concept available prior to  
2 Ecology’s issuance of its 401 decision in August 2001.

3 9. The two major flow augmentation schemes attempted and then rejected  
4 by the Port had serious defects that ultimately disqualified them as a water source for  
5 mitigation of low flows in Sea-Tac area streams. The third plan suffers its own set of  
6 defects, as described below.

7  
8 10. The Port’s first proposal involved acquisition of an existing well on the  
9 Tyee Golf Course. However, this well was not used at all for a period of years, and  
10 then was used without benefit of a water right for many more years. It is highly  
11 unlikely there is a valid water right for the well. Moreover, the well was not legally  
12 constructed under state law, exploiting three different aquifers in a common casing in  
13 contravention of state rules for protection of upper aquifer zones.

14  
15 11. The Port next approached Seattle Public Utilities about providing  
16 augmentation water, however, it was determined that the import of water from the  
17 Cedar River presented both chemical and physical disqualifications. The temperature  
18 of Cedar River water is as high as 20 degrees C for much of the time when  
19 supplemental water is most needed, and 16 degrees C maximum is the water quality  
20 standard for Class AA streams. The scheme to use this water relied on technological  
21 inputs whose continuity could not be assured, and the water would also have had to  
22 be purged of drinking water conditioning chemicals such as chlorine and fluoride.  
23



1 being AKART [all known and reasonable technology]. SWDM (King County Surface  
2 Water Design Manual) is not AKART ." Eglick Decl. at ¶ 1.

3 39. Ecology's 401 Certification has acquiesced in the Port's Sea-Tac  
4 stormwater strategy, which is to say "we'll figure out a way to treat it if it is later  
5 proved that we have to." This defers the inevitable argument over whether or not they  
6 have to, until some later date, by which time the construction will have long since  
7 been completed, and the irreparable harm to local streams will have been done. There  
8 is a built-in assumption in the permit that violation of water quality standards is  
9 permissible, during the indefinite experimental period while they improvise  
10 solutions.  
11

12 40. To contemplate inappropriate use of Best Management Practices for  
13 treatment of the acknowledged pollutant stream in the Sea-Tac stormwater, and  
14 release of stored stormwater without treatment into local streams, falls far short of the  
15 required reasonable assurance that the Port's projects will meet water quality  
16 standards.  
17

18 I declare under penalty of perjury under the laws of the State of Washington  
19 that the foregoing is true and correct.  
20

21 DATED this 12<sup>th</sup> day of September, 2001, at Seattle, Washington.

22   
23 \_\_\_\_\_  
Peter Willing, Ph.D.

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25  
DECLARATION OF DR. PETER WILLING IN  
SUPPORT OF ACC'S MOTION FOR STAY-20

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