

Received by FAX

Nov 2, 01

RECEIVED

NOV - 5 2001

ENVIRONMENTAL  
HEARINGS OFFICE

POLLUTION CONTROL HEARINGS BOARD  
FOR THE STATE OF WASHINGTON

1	AIRPORT COMMUNITIES COALITION,	)	
2		)	PCHB No. 01-160
3		)	
4	Appellant,	)	
5		)	STIPULATION REGARDING PROPOSED
6	v.	)	STATEMENT OF LEGAL ISSUES
7		)	
8	STATE OF WASHINGTON,	)	
9	DEPARTMENT OF ECOLOGY; and	)	
10	THE PORT OF SEATTLE,	)	
11		)	
12	Respondents.	)	

Pursuant to the Pre-Hearing Order dated October 30, 2001, as amended orally on November 1, 2001, the parties stipulate to the following statement of legal issues for the Board's consideration.

The parties acknowledge that there are more than three issues in this case, but have only reached agreement on how three of the issues should be stated. If the parties can reach agreement on the statement of additional issues, the parties will notify the Board of the additional stipulated issues on or before November 15, 2001, when the parties may file objections to issues proposed separately by other parties.

**Stipulated Issues:**

1. Did Ecology violate applicable law pertaining to public and agency notice, hearing, comment and modification regarding the original 401/404 application and Amended Certification?

ORIGINAL

AR 006206

- 1  
2  
3  
4  
5  
6
2. Does Ecology's concurrence with the Port's consistency certification, issued pursuant to the Coastal Zone Management Act ("CZMA"), fail to comply with the requirements of the CZMA and Washington's approved Coastal Zone Management Plan?
  3. Do the stated limitations on the temporal, operational, and geographic scope of the Certification, including its limitation to "Port 404 projects," violate the requirements of Section 401 of the Clean Water Act and applicable state water quality law?

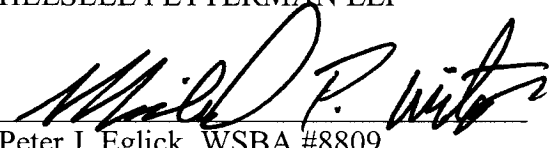
7  
8  
9

STIPULATED TO this 2nd day of November, 2001.

10  
11  
12

HELSELL FETTERMAN LLP

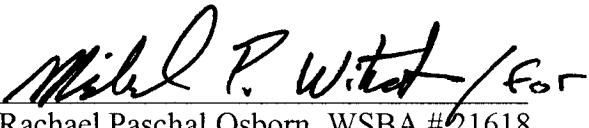
13  
14  
15  
16  
17

  
Peter J. Eglick, WSBA #8809  
Kevin L. Stock, WSBA #14541  
Michael P. Witek, WSBA #26598  
Attorneys for Appellant ACC

18  
19  
20

LAW OFFICES OF RACHAEL PASCHAL OSBORN

21  
22  
23  
24  
25

  
Rachael Paschal Osborn, WSBA #21618  
Attorney for Appellant ACC

CHRISTINE O. GREGOIRE, ATTORNEY GENERAL

\_\_\_\_\_  
Thomas J. Young, WSBA #17366  
Joan M. Marchioro, WSBA #19250  
Attorneys for Respondent Department of Ecology

**AR 006207**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- 2. Does Ecology's concurrence with the Port's consistency certification, issued pursuant to the Coastal Zone Management Act ("CZMA"), fail to comply with the requirements of the CZMA and Washington's approved Coastal Zone Management Plan?
- 3. Do the stated limitations on the temporal, operational, and geographic scope of the Certification, including its limitation to "Port 404 projects," violate the requirements of Section 401 of the Clean Water Act and applicable state water quality law?

STIPULATED TO this 2nd day of November, 2001.

HELSELL FETTERMAN LLP

---

Peter J. Eglick, WSBA #8809  
 Kevin L. Stock, WSBA #14541  
 Michael P. Witek, WSBA #26598  
 Attorneys for Appellant ACC


LAW OFFICES OF RACHAEL PASCHAL OSBORN

---

Rachael Paschal Osborn, WSBA # 21618  
 Attorney for Appellant ACC

CHRISTINE O. GREGOIRE, ATTORNEY GENERAL

---



Thomas J. Young, WSBA #17366  
 Joan M. Marchioro, WSBA #19250  
 Attorneys for Respondent Department of Ecology

AR 006208

1 FOSTER PEPPER & SHEFFELMAN

2

*Roger A. Pearce*

3

Roger A. Pearce, WSBA #21113  
Steven G. Jones, WSBA #19334  
Attorneys for Respondent Port of Seattle

5

6 MARTEN & BROWN

7

*J. Tanya Barnett*

8

J. Tanya Barnett, WSBA #17491  
Attorneys for Respondent Port of Seattle

10

11

12 g:\u\amtpch\issuans-stip-110201.doc

13

14

15

16

17

18

19

20

21

22

23

24

25

STIPULATION REGARDING PROPOSED  
STATEMENT OF LEGAL ISSUES - 3

HELSELL FETTERMAN LLP  
1500 Puget Sound Plaza  
1325 Fourth Avenue  
Seattle, WA 98101-2500

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

1 FOSTER PEPPER & SHEFELMAN

2

3 

---

 Roger A. Pearce, WSBA #21113  
4 Steven G. Jones, WSBA #19334  
5 Attorneys for Respondent Port of Seattle

6 MARTEN & BROWN

7 *Tanya Barnett*

8 

---

 J. Tanya Barnett, WSBA #17491  
9 Attorneys for Respondent Port of Seattle

10

11

12 g:\u\acct\pehb\issucs-stip-110201.doc

13

14

15

16

17

18

19

20

21

22

23

24

25

AR 006210

STIPULATION REGARDING PROPOSED  
STATEMENT OF LEGAL ISSUES - 3

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

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