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SNVIKONMENTAL HEARINGS OFFICE

BEFORE THE POLLUTION CONTROL HEARINGS BOARD STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,

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v.

Appellant,

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

Respondents.

PCHB No. 01-133 PCHB No. 01-160

RESPONDENT DEPARTMENT OF **ECOLOGY'S STATEMENT OF** ISSUES, AND PRELIMINARY WITNESS AND EXHIBIT LIST

The State of Washington, Department of Ecology (Ecology), by and through its attorneys, Joan M. Marchioro and Thomas Young, Assistant Attorneys General, submit the following statement of issues, preliminary witness and exhibit list, and proposed schedule regarding Appellant's Motion for Stay:

ISSUE I.

Whether, when issuing a Clean Water Act Section 401 Certification for the Port of Seattle's Master Plan Update Improvements, Ecology had reasonable assurance that water quality standards would be met by the proposed project?

II. WITNESSES

- Ann Kenny, Department of Ecology, Northwest Regional Office; 1.
- Erik Stockdale, Department of Ecology, Northwest Regional Office; 2.

ECOLOGY'S STATEMENT OF ISSUES, PRELIMINARY WITNESS AND **EXHIBIT LIST**

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ATTORNEY GENERAL OF WASHINGTON **Ecology Division** PO Box 40117 Olympia, WA 98504-0117 FAX (360) 586-6760

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2	3.	Kevin Fitzpatrick, Department of Ecology, Northwest Regional Office;	
	4. Katie Walter, Shannon and Wilson;		
	5. Kelly Whiting, King County Department of Natural Resources;		
	6. Dave Garland, Department of Ecology, Northwest Regional Office;		
	7. Gordon White, Department of Ecology, Headquarters;		
6	8. Ching Pi Wang, Department of Ecology, Northwest Regional Office;		
7	9. Chung Yee, Department of Ecology, Headquarters; and		
8	10.	John Drabek, Department of Ecology, Northwest Regional Office.	
9	Ecolog	gy reserves the right to call any witnesses identified by any other party.	
10		III. EXHIBIT LIST	
11	1.	Comprehensive Stormwater Management Plan (CSMP) (Volumes 1 -4), Seattle-	
12	Tacoma International Airport, Master Plan Update Improvements: Prepared for Port of Seattle,		
13	STIA, by Parametrix, Inc., December, 2000		
14	2.	CSMP Replacement Pages for Volumes 1-4 dated July 2001.	
15	3.	Floyd and Snider, Inc. Meeting notes from October 2, 2000 to December 8,	
16	2000 Summary (pertains to the facilitated process used to identify and resolve permitting		
17	issues prior to Port's submittal of revised documents).		
18	4.	Floyd and Snider, Inc. Meeting notes from CSMP technical review meetings	
19	dating from March 14, 2001 to July 23, 2001.		
20	5.	Floyd and Snider, Inc. Meeting notes from Low Flow Analysis technical review	
21	meetings dating from April 20, 2001 to July 27, 2001.		
22	6.	Low Streamflow Analysis, Port of Seattle, STIA, prepared by Earth Tech, Inc.,	
23	·		
24	7.	Sea-Tac Runway Fill Hydrologic Studies Report prepared for Department of	
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26	Ecology by Pacific Groundwater Group, Ecology and Environment and Earth Tech, Inc. date		
ı	June 19, 2000	AR 006483	

1	8.	Assessment of the Existing and Future Hydrologic Divide of Miller, Walker
2	and Des Moines Creeks after Construction of Master Plan Update Projects at Seattle-Tacon	
3	International Airport, prepared for Port of Seattle by Parametrix, Inc. dated July 2001.	
4	9.	Letter dated July 23, 2001 from Keith Smith, Port of Seattle, to Ann Kenny
5	Ecology, summarizing Port of Seattle's evaluation of summer low streamflow impacts in D	
6	Moines, Miller and Walker Creeks.	
7	10.	Letter dated July 25, 2001 from Keith Smith, Port of Seattle, to Ann Kenny
8	Ecology, providing clarifications to letter of July 23, 2001 re low streamflow impacts.	
9	11.	Low Flow Analysis Impact Offset Facility Proposal and Attachments, prepared
10	for the Port of Seattle by Parametrix, Inc. dated July 23, 2001.	
11	12.	Letter dated July 31, 2001 with attached conceptual drawings for Flow Impact
12	Offset Facility.	
13	13.	Memorandum from Dave Garland to Ann Kenny dated August 7, 2001, subject
14	Review of "Low Flow Analysis, Flow Impact Offset Facility Proposal," Port of Seattl	
15	Parametrix, Inc., July 2000.	
16	14.	Final Natural Resource Mitigation Plan and Appendices A through H, STIA
17	prepared for l	Port of Seattle by Parametrix, Inc. dated December 2000.
18	15.	Wetland Delineation Report, Master Plan Update Improvements, STIA
19	prepared for t	he Port of Seattle by Parametrix, Inc. dated 2000.
20	16.	Wildlife Hazard Mitigation Plan, STIA, developed by Seattle-Tacoma
21	International	Airport in Cooperation with U.S. Department of Agriculture, August 2000.
22	17.	Wetland Functional Assessment and Impact Analysis, Master Plan Update
23	Improvements, STIA, prepared for Port of Seattle by Parametrix, Inc. dated December 2000.	
24	18.	Wetland Photographs and Maps, Master Plan Update Improvements, STIA
25	prepared for 1	Port of Seattle by Parametrix, Inc. dated December 2000. AR 006484
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1	19. Memorandum from Tom Walsh to Joan Marchioro dated June 28, 2001	,	
2	Restrictive Covenants.		
3	20. Report: Avoidance of Wetland Impacts, Temporary Stormwater Pond A, Sea	-	
4	Tac Third Runway, prepared for HNTB and the Port of Seattle by Hart Crowser, Inc. dated	i	
5	June 18, 2001.		
6	21. Letter of Transmittal from Hart Crowser to Jim Kelley, Parametrix with four attached	1	
7	figures showing revised plan and sections for Borrow Area 3 wetland protection swale.		
8	22. Revised Auburn Wetland Mitigation Planting Plan and Grading Plan received	1	
9	by Ecology June 29, 2001.		
10	23. FAX transmittal of Final Performance Standards (Tables 7.7-1, 5.1-7, 5.2-12	,	
11	5.3-6) from Jim Kelley, Parametrix, Inc. to Ann Kenny, Ecology (hard copy received July 12,		
12	2001).		
13	24. Transmittal Form and attached wetland hydrology monitoring data from Pau	1	
14	Fendt, Parametrix, Inc. to Ann Kenny, Ecology dated September 6, 2001.		
15	25. 401 Water Quality Certification and RCW 90.48 Orders issued August 10, 200	l	
16	and September 21, 2001.		
17	26. Joint Aquatic Resource Permit Application dated October 25, 2000 submitted to)	
18	the U.S. Army Corps of Engineers.		
19	27. Letter from Pam Bissonnette, King County Department of Natural Resources to)	
20	Ann Kenny, Ecology dated February 22, 2001 regarding the County's review of the Port of	f	
21	Seattle's Comprehensive Stormwater Management Plan.		
22	28. Letter from Pam Bissonnette, King County Department of Natural Resources to	3	
23	Ann Kenny, Ecology dated August 3, 2001 regarding the County's review of the Port of	f	
24	Seattle's Comprehensive Stormwater Management Plan (revised July 2001).		
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26	AR 00648	5	

1	29. Letter from Pam Bissonnette, King County Department of Natural Resources to		
2	Ann Kenny, Ecology dated August 3, 2001 regarding the County's review of the Port of		
3	Seattle's Low Flow Impact Analysis-Low Flow Impact Facility Proposal (July 2001).		
4	30. Draft Technical Memorandum, Analysis of Preferential Ground Water Flow		
5	Paths Relative to Proposed Third Runway, STIA, prepared for Port of Seattle by Associated		
6	Earth Sciences, Inc. dated June 19, 2001.		
7	Ecology reserves the right to use all previous and future exhibits identified by other		
8	parties and to supplement and/or amend this list as may be necessary.		
9	DATED this 10th day of October, 2001.		
10	CHRISTINE O. GREGOIRE		
11	Attorney General		
12	Qui melino		
13	JOAN M. MARCHIORO WSBA #19250		
14	Assistant Attorney General		
15	727		
16	THOMAS J. YOUNG () WSBA #17366		
17	Assistant Attorney General		
18	Attorneys for Respondent State of Washington		
19	Department of Ecology 360.586.6770		
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ENVIRONMENTAL

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BEFORE THE POLLUTION CONTROL HEARINGS BOARD STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,

Appellant,

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

Respondents.

PCHB No. 01-133 PCHB No. 01-160

CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, I certify that on October 10, 2001, I caused Ecology's Statement of Issues, and Preliminary Witness and Exhibit List and this Certificate of Service in the above-captioned matter to be served upon the parties herein, as indicated below:

reter J. Egnck				
Kevin L. Stock				
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

☑ U.S. Mail

☐ State Campus Mail ☐ Hand Delivered

☐ Overnight Express ☑ By Fax: 206.340.0902

☑ U.S. Mail

☐ State Campus Mail

☐ Hand Delivered ☐ Overnight Express

☑ By Fax: 509.328.8144

CERTIFICATE OF SERVICE

ORIGINAL

AR 006487

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ATTORNEY GENERAL OF WASHINGTON **Ecology Division** PO Box 40117 Olympia, WA 98504-0117 FAX (360) 586-6760

2	Linda J. Strout, General Counsel Traci M. Goodwin, Senior Port Counsel Port of Seattle	☑ U.S. Mail☐ State Campus Mail☐ Hand Delivered		
3	2711 Alaskan Way (Pier 69) P.O. Box 1209	☐ Overnight Express ☐ By Fax: 206.728.3205		
4	Seattle, WA 98111	·		
5	Roger A. Pearce Steven G. Jones	☑ U.S. Mail □ State Campus Mail		
6	FOSTER, PEPPER & SHEFELMAN	☐ Hand Delivered		
7	1111 3rd Avenue, Suite 3400 Seattle, WA 98101	☐ Overnight Express ☐ By Fax: 206.749.1997		
8	Gillis E. Reavis			
9	MARTEN & BROWN	☑ U.S. Mail □ State Campus Mail		
10	1191 Second Avenue, Suite 2200 Seattle, WA 98101	☐ Hand Delivered ☐ Overnight Express ☑ By Fax: 206.292.6301		
11	Jay J. Manning	☑ U.S. Mail		
12	MARTEN & BROWN	☐ State Campus Mail☐ Hand Delivered		
13	421 S. Capitol Way, Suite 303 Olympia, WA 98501	☐ Hand Denvered☐ Overnight Express☐ By Fax: 360.786.1835		
14	the foregoing being the last known business address.			
15 16	I certify under penalty of perjury under the laws of the State of Washington that the			
	foregoing is true and correct.			
17	DATED this 10th day of October, 2001, in Olympia, Washington.			
18				
19		C.S. Wolfer		
20		C. J. WOLFER Legal Assistant		
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