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ENVIRONMENTAL
HEARINGS OFFICE

POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

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5	AIRPORT COMMUNITIES COALITION,)	
6	Appellant,)	PCHB No. 01-133
7	v.)	PCHB No. 01-160
8	STATE OF WASHINGTON,)	DECLARATION OF SALLY NELSON,
9	DEPARTMENT OF ECOLOGY; and)	MAYOR, CITY OF BURIEN
10	THE PORT OF SEATTLE,)	(Department of Ecology Orders No.
11	Respondents.)	1996-4-02325; No. 1996-4-02325
12	_____)	(Amended-1))

Sally Nelson declares and states 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 the Mayor of the City of Burien, Washington. Burien is vitally interested in the Department of Ecology's Section 401 Certification for the Port of Seattle's airport projects. For example, over fifty percent of the Miller Creek drainage basin is within our city's boundaries. Burien devotes considerable resources to protection and enhancement of area streams and watersheds. The headwaters of Walker Creek, a tributary of Miller Creek which provides low summer flow for salmon habitat in Walker and Miller Creeks, are located within our city's boundaries.

DECLARATION OF SALLY NELSON - 1

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ORIGINAL

AR 007111

1 3. Because of our concern that the Ecology decision is not well-founded, Burien, as a
2 member of the Airport Communities Coalition, is asking the Pollution Control Hearings Board to
3 review the Department of Ecology's Clean Water Act Section 401 Certification that water quality
4 standards will not be violated. It is my belief that Ecology's decision was driven by politics,
5 rather than science, particularly after October, 2000, when Tom Luster, the Department's senior
6 staff expert on Section 401 matters, was removed abruptly from the process. The Port's
7 subsequent submittal of its (third) Section 401 application and its approval by Ecology despite
8 numerous unanswered questions and yet-to-be-submitted analyses raise more questions in the
9 public's mind than they resolve concerning whether there really is reasonable assurance that the
10 Port project will not degrade water quality in our city.

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13 4. The citizens of Burien have long understood that under both the federal Clean
14 Water Act and state law water quality is a paramount and overriding public interest. Confidence
15 in public processes and resulting decisions on water quality is also a matter of overriding public
16 interest. I understand that Port employees and Port supporters oppose a stay of the Ecology 401
17 Certification to allow the Board a few months in which to review it. However, the "public
18 interests" cited for opposing a stay are neither overriding nor even sensible in light of the current
19 situation. For example, the Port states on the one hand that it will suffer hypothetical losses of a
20 few thousand dollars per day if work does not proceed immediately, but on the other hand
21 acknowledges that it would be proceeding at the risk of thousands of dollars in public funds
22 because of the possibility that the 401 Certification would be overturned or that an Army Corps
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25 DECLARATION OF SALLY NELSON - 2

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AR 007112

1 Section 404 permit would not be granted. As mayor of a municipality and a long-time
2 participant in governmental affairs in the State of Washington, I can see no overriding public
3 interest in permitting the Port to make such a gamble with public funds. There is, in fact, an
4 overriding public interest in preventing such a gamble, particularly when the assets at stake are
5 not just Port money, but the environmental quality enjoyed by the citizens of Burien.
6

7 5. Similarly, claims by Port employees and The Boeing Company of an overriding
8 need to move ahead before the Board has ruled based on purported air traffic demands ask the
9 Board to ignore facts which have been apparent for some time. For example, it has been widely
10 reported that the Port projections for increased air traffic demand at Sea-Tac have not been met
11 over the past year, and that, in fact, over the past year traffic at Sea-Tac has decreased. These
12 reports pre-dated the awful events of September 11, and their aftermath.
13

14 6. We are now in a time of Boeing layoffs, airline layoffs, drastic decreases in air
15 travel, new security concerns, and financial instability for both airlines and airport operators,
16 including the Port of Seattle. To suggest now that there is an "overriding public interest" in
17 proceeding with the billion-dollar third runway project in the next few months is absurd. If the
18 Board were to accept this argument as a basis for denying ACC's request for a stay, it would not
19 serve the real overriding public interests in this matter, which are environmental protection and
20 restoration of public confidence in the 401 Certification process itself. The overriding public
21 interest here lies in an impartial decision by a non-political quasi-judicial board such as the
22 PCHB before the 401 Certification is permitted to take effect.
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25 DECLARATION OF SALLY NELSON - 3

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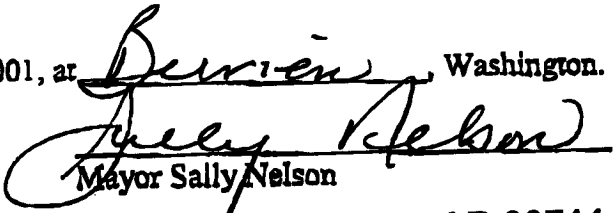
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1 7. The hazards associated with the "Great Wall of Sea-Tac," the 160-foot high,
 2 1,500-foot-long wall proposed as part of the embankment system to hold back the more than 20
 3 million cubic feet of fill the third runway would require, continue to be of major concern. ACC
 4 scientists have always identified this wall, in a seismically unstable zone, as an environmental
 5 accident waiting to happen. Recent events suggest it could be the focus of something worse.
 6 There is no overriding public interest in commencing its construction -- or even preparing to
 7 commence its construction -- until all of its implications have been assessed.

8 8. The Board should also be aware that the absence of 401 Certification has not
 9 precluded the Port from conducting airport construction activities. We in Burien are already
 10 suffering from a ceaseless train of Port trucks importing fill to its site for a project which has not
 11 gained and may never gain final approval in the first place. Therefore, it is simply not true that a
 12 stay of the 401 Certification, based on the Port's past performance, will halt activities which the
 13 Port is apparently undertaking at its own risk in furtherance of the project. A stay will, however,
 14 prevent the floodgates from opening further and go far to reassure the public that environmental
 15 decisions will not be based on Port fait accompli tactics, but on the merits.

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

18 DATED this 5 day of October, 2001, at Burien, Washington.

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 20
 21 
 22 Mayor Sally Nelson

23 AR 007114

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25 DECLARATION OF SALLY NELSON - 4

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