

POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,

Appellant,

v.

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

Respondents.

PCHB 01-133

PRE-HEARING ORDER

On August 23, 2001, the Airport Communities Coalition (ACC) filed a request for review with the Pollution Control Hearings Board ("Board"), challenging the § 401 certification issued by the Department of Ecology (Ecology). A pre-hearing conference was held on September 4, 2001, to set a schedule for briefings on a stay motion. Kaleen Cottingham presided for the Pollution Control Hearings Board.

Appearances for the parties:

Appellant ACC:

1. Peter Eglick and Kevin Stock, of Helsell Fetterman, LLP. Also present at the conference was Mike Wittek.
2. Rachel Paschal Osborn, Attorney at Law

Respondent Department of Ecology:

1. Joan Marchioro and Thomas Young, with the Attorney General's Office

1 Respondent Port of Seattle:

- 2 1. Linda Strout and Traci Goodwin, with the Port of Seattle
3 2. Roger Pearce and Steven Jones, of Foster Pepper
4 3. Jay Manning and Gillis Reavis, of Marten & Brown

5 Based on the conference, the following pre-hearing order is entered:

6 **I. STAY MOTION**

7 The parties have agreed to a specific schedule for briefings on a stay motion as follows:

8 Appellant ACC shall file and serve its motion for stay and supporting materials no later
9 than 5 p.m. on **September 11, 2001**. Appellant shall assure that the motion and supporting
10 materials are received by the respondents and the Board by 5 p.m. on that date, either by fax or
11 by special delivery.

12 Respondents shall file and serve responsive briefs no later than **September 28, 2001**.

13 Respondents shall deliver, either by fax or by special delivery, such briefing materials to the
14 Appellants by 1 p.m. and to the Board no later than 5 p.m.

15 Appellant shall file and serve its reply brief no later than 1 p.m. on **October 5, 2001**. The
16 reply brief and all copies shall be filed and served in such a manner as to actually be received by
17 the board and the other parties by 1 p.m. on that date. This shall be done by special delivery, not
18 faxed or mailed.

19 The board has scheduled oral arguments on the stay motion for a secondary setting on
20 **October 12, 2001** at 10 a.m. The Board will notify the parties at the earliest possible time
21 whether the case with primacy for that date has been moved or settled. If that date is

1 unavailable, the parties may choose to have the motion decided on the written submittals or to
2 reschedule the oral arguments. The board will tentatively hold an additional time for the oral
3 argument on **October 15, 2001** at 9:30 a.m. The appellant shall notify the board at its earliest
4 convenience whether the conflict it has for October 15th has been eliminated.

5 The oral argument shall occur in the board's hearing room in Lacey Washington, with
6 each side having 40 minutes to present its case.

7 **II. SECOND PREHEARING CONFERENCE**

8 The second pre-hearing conference is scheduled for **October 15, 2001**, at 11:00 a.m. to
9 be held in person in the board's office in Lacey. If any of the parties would prefer to participate
10 by phone, please contact Ms. Judy Greear at the Board's office with that request. The purpose of
11 the second pre-hearing conference is to set the schedule, identify the issues in the appeal and take
12 care of other preliminary matters. By **October 10, 2001**, please file and serve your proposed
13 legal issues and witness and exhibits lists. The parties are encouraged to attempt to submit a
14 jointly agreed to set of legal issues. Following the second pre-hearing conference, an order will
15 be issued to govern the subsequent proceedings.

16 **III. COMMUNICATION**

17 All correspondence and filings with the Board shall be sent to the attention of the
18 presiding officer with copies sent at the same time to all other parties.

19 **IV. MISCELLANEOUS**

20 "Filed and "served" means the date received by the Board. For purposes of this stay
21 motion, the parties have agreed to specific dates and times by which materials must be filed and

1 served. An original and three (3) copies of motion pleadings shall be filed with the Board and
2 served on opposing parties. Except as noted above, service and filing of motion, answer, and
3 reply (if 10 pages or less) may be by telefax or special delivery. If telefax is used, the original
4 and 3 copies shall be mailed the same day.

5 Briefs are limited to 15 pages in length, absent an order granting a motion to lengthen. If
6 a citation is made to a case other than Wn. App. or Wn.2d, a complete copy of the referenced
7 citation must be filed and served.

8 **ORDER**

9 This order shall govern the proceedings, unless subsequently modified by order of the
10 Board for good cause upon a party's motion or the Board's volition.

11 SO ORDERED this 4th day of September, 2001.

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13 **POLLUTION CONTROL HEARING S BOARD**

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18 **KALEEN COTTINGHAM,**

19 Presiding