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401 Permit Decision-Making Sea-Tac International Airport, Third Runway

DRAFT MEETING NOTES

March 9, 2001
11:00 - 3:00

These draft meeting notes have been prepared by Kate Snider, Floyd & Snider Inc. Please reply to Kate at (206) 292-2078, fax (206) 682-7867, kates@floyd-snider.com with comments on the accuracy of these notes by 5pm, Thursday, 3/15/01.

ATTENDEES

Ray Hellwig, Dept. of Ecology
Kevin Fitzpatrick, Dept. of Ecology
Ann Kenny, Dept. of Ecology

Elizabeth Leavitt, Port of Seattle
David Masters, King County
Kate Snider, Floyd & Snider Inc.
Rachel McCrea, Floyd & Snider Inc.

STATEMENT OF PURPOSE

In order for the Department of Ecology (Ecology) to get through the decision-making process on the 401 in an efficient and timely manner, there is a need to tightly manage information exchange and technical work. Ecology is engaged in deliberative, decision-making mode that discourages debate. In this mode, Ecology is requesting additional focused information from the Port on several topics. The purpose of this management meeting was to discuss status, information requests and process forward in the 401 permit process.

Issues include:

1. Stormwater Master Plan (SMP)
2. Low Stream Flow Mitigation
3. Natural Resources Mitigation Plan (NRMP)
4. 401 Permit and 402 Major Modification Schedule Relationship
5. MTCA Agreed Order

STORMWATER MASTER PLAN

AR 017265

Overview

King County Reviewer comments define "to-do" items that are grouped and provided in checklist format in King County Comments Enclosure 2. Enclosure 2 is a compilation of

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items needed for King County to be able to issue a formal Statement of Concurrence that the SMP is in compliance with the technical requirements of the 1998 King County Stormwater-Surface Water Design Manual.

Ecology may have other water quality concerns with the SMP that are not related to the King County manual. These other water quality concerns are addressed primarily on other topics of this meeting's agenda.

King County is committed to completion of this process through focused efforts. If additional funding is required to complete the review, the Port will fund additional budget and the King County contract with Ecology will be amended.

Process

The following process for responding to King County Enclosure 2 requests will be adhered to:

- The Port will submit groups of materials that meet Enclosure 2 requests as defined by the Enclosure 2 groupings.
- Materials will be submitted in the form of page substitutions only.
- Nothing is to be changed other than those items requested in Enclosure 2. Independent corrections or "spontaneous repairs" result in a more lengthy review time and/or new issues.
- Technical Group meetings will be conducted. In these meetings, specific requested changes would be clarified and agreement reached regarding pages that will be substituted for each request.
- Requested changes with potential "ripple effects" will be identified during the Technical Group meeting. If "ripple effects" are detected outside of the Technical Group meeting, no changes are to be made without first discussing with both King County and Ecology's John Drabek. The decision regarding how to address any encountered ripple effects will be made collectively in a meeting or on conference call with Ecology, King County and the Port.
- King County will review each group of materials as they are submitted.

Technical meeting attendees will include: John Drabek (Ecology), Ann Kenny (Ecology), Kelly Whiting (King County), Keith Smith (Port), Paul Fendt (Parametrix), Joe Brascher (Aquaterra), and a facilitator/note-taker. Elizabeth Leavitt (Port) and Kevin Fitzpatrick (Ecology) will also attend the first Technical Group meeting.

Agenda for First SMP Technical Group Meeting

The first SMP Technical Group meeting is scheduled for March 14, 2001 from 9:00 – 12:00 at Ecology's NWRO.

Administrative agenda items include:

- Schedule further Technical Group meetings.
- Clarify process for interim communications between Technical Group members.
- Review availability and schedule constraints of King County Reviewer.
- Confirm that all technical issues related to compliance with the 1998 King County ~~Stormwater Plan~~ Surface Water Design Manual are reflected in the grouped checklists.

LOW STREAM FLOW MITIGATION

Overview

Surface water modeling concerns with the low stream flow mitigation proposal are described in King County Enclosure 2 and will be addressed through the process defined for the SMP.

Dave Garland (Ecology) describes ground water modeling concerns in a letter, provided to the Port during this meeting.

The Ecology Attorney General is in the process of deliberating on the program-level policy decision whether or not a water right is required for the mitigation proposal. A 401 permit could not be issued provisional on the water right because there must be a guaranteed source of water for mitigation.

Process

Ecology will meet internally to define and prioritize specifically what is required of the Port in order to address Ecology concerns with the low stream flow mitigation proposal. The requirements will be provided to the Port in writing as a letter to the applicant. The requirements will include a description of the level of detail requested.

NATURAL RESOURCES MITIGATION PLAN (NRMP)

Process

Ecology review consultant Shannon & Wilson (S&W) will provide Ecology with draft NRMP comments on March 23, 2001. Eric Stockdale (Ecology) will review these draft comments. A letter to the applicant requesting more information may be developed if necessary.

NRMP comments will be informed by King County comments on the SMP (e.g. S&W will consider the effect of King County SMP comments on the NRMP). However, if changes are made to the SMP that affect the NRMP, further NRMP consistency review would be needed.

The Draft Response to Comments prepared by the Port will be provided to Ecology electronically to assist with deliberations.

401 PERMIT AND 402 MAJOR MODIFICATION SCHEDULE RELATIONSHIP

Overview

Ecology has determined that the 401 permit cannot be issued before the 402 permit major modification is issued. This determination is based on a recent legal determination that a 401 permit cannot be issued prior to a 402 on which the 401 permit relies.

Ecology concludes that the 402 major modification should be issued prior to, or concurrent with the 401.

Process

Ecology has a staffing/resource problem related to completing the 402 Major Modification. Discussions are ongoing inside Ecology to locate an experienced permit manager from within another division or region who is available to review the public comments received, respond to those comments, develop modifications if required and make a permit decision.

The Port will assist by providing Ecology with draft responses to public comments on the 402. Ecology will transmit the transcription of the public hearing to the Port when the transcription becomes available.

MTCA AGREED ORDER

Overview

The groundwater study required in the Agreed Order does not need to be completed in order to issue the 401 Permit. However, in support of a 401 decision, Ecology has determined that documentation is needed to show that Third Runway infrastructure will not open up additional pathways for contaminated groundwater from the A.O.M.A. to reach surface waters.

Process

The Port will provide information and/or references to existing data to specifically address Ecology's question regarding Third Runway infrastructure affects on contaminated groundwater transport.

Ecology's Toxics Cleanup Program will review the information provided by the Port on this topic.