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Whiting
EXHIBIT NO. 43
12.20.01
M. Green

- infiltration rate sampling and monitoring to evaluate performance of the fill
- establishment of contingency measures in case fill does not meet performance standards

L. Operational Stormwater Requirements:

Approved Stormwater Plan: The Comprehensive Stormwater Management Plan, Volumes 1 through 4, December 2000 as revised by the July 2001 Replacement pages is the approved stormwater management plan for this project. It shall be implemented in its entirety. No changes to the plan shall be made without prior review and approval.

The Port shall provide Ecology with draft proposed changes to the Plan no later than 60 days prior to the date it wishes to implement a change to the plan.

The Port shall implement the project in accordance with the schedule provided in Table A-3 (July 2001). Any changes to the schedule must be reviewed and approved in advance by Ecology. The Port shall provide Ecology with a draft revised schedule no later than 60 days prior to the date it wishes to implement the change to the schedule. The following facilities/projects listed in Table A-3 (July 2001) do not have yet have stormwater treatment facilities proposed: XXX. If the Port decides to build any of these facilities/project the Port must submit conceptual drawings that meet the performance standards of the CSMP to Ecology for review and approval.

Retrofitting of stormwater management facilities at the STIA shall occur at a rate commensurate with the construction of new impervious surface at the STIA. For every ten percent of new impervious surface added at the project site, the Port must demonstrate that an equal 10 percent of retrofitting has occurred. The Port shall document the implementation of retrofitting in quarterly progress reports.

*construction
of treatment
and pump
plant*

Nothing in this Order shall be deemed to prohibit continued participation by the Port in planning efforts to establish regional detention facilities for Des Moines or Miller Creek. The Port may request to amend this Order and the Comprehensive Stormwater Management Plan ~~if it decides to route stormwater to~~ future regional detention facilities ~~and it is demonstrated that under future built-out~~ conditions the combination of on-site and regional flow controls will achieve the performance goals of the CSMP and the associated Basin Plan. If the Port decides to participate in future regional detention facilities the Comprehensive Stormwater Plan shall be amended to ensure that the following performance standard is met: ~~The Port shall ensure that reduced on-site performance standards achieve the performance standards established for the regional detention facility stormwater is routed to. (Kolly)~~

1/22P

Discharge of operational stormwater to state receiving waters:

No stormwater generated by operation of the facilities approved by this Order shall be discharged to state receiving waters until a Water Effects Ratio Study has been completed and approved by Ecology and effluent limitations and monitoring requirements have been established in the Port's NPDES permit. A WERS shall be submitted to Ecology for review and approval no later than XXX.

All stormwater discharges from the project shall be in compliance with state of Washington surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC) and ground water quality standards (Chapter 173-200 WAC).

- The Applicant shall design, construct, operate, and maintain stormwater treatment facilities to ensure that discharges will not result in exceedances of state water quality

criteria in receiving waters. All runoff from impervious surfaces (except from the existing bridge) shall be treated using all known available and reasonable treatment (AKART), at the time of initial final design.

CSMP could easily be challenged as not being AKART. SWDM is not AKART. Rather see a tie to the monitoring results that might require AKART to meet applicable water quality standards and this Order.

1. The Applicant shall design the stormwater treatment facilities in accordance with Ecology's stormwater management manual that is in effect at the time of final design, or other equivalent manuals approved by Ecology; or [Discuss with Kevin, John and Kelly]

At a minimum, I would suggest this be conditional on: IF they amend the SMP, THEN they need to demonstrate that the revised CSMP meets the performance goals of CSMP and the Ecology manual in effect at time of amendment.

Discussion:

We have essentially approved them to use the 1998 King County Surface Water Design Manual, although they do also mention the current Ecology Manual.

Does 40) Order vest projects for specified time (e.g., must be implemented in X years or reapply)?
What if SMP or LFAR amended?

Water Quality Treatment: The proposed Ecology manual would likely require "enhanced" water quality treatment for much of the site. This is our understanding, but we have not seen the current proposal, so cannot confirm. The CSMP takes the approach that if additional WO treatment is needed to meet WO standards (based on monitoring), then they will do more. I don't think new Ecology manual will take this approach.

Flow Control: They exceed the flow control requirements for both KCSWDM and current Ecology manuals. The flow control approaches are different under proposed Ecology manual. The manual would only require retrofits of replaced impervious surfaces, but would require it to a fully forested release rate. The CSMP retrofits all impervious areas, but to the 75% forested/10% impervious release rates. Although not evaluated, in most existing subbasins it is understood that existing (not to be replaced) impervious surfaces exceed 10%, and therefore the CSMP retrofit standard would be more protective. In the buyout area the existing % impervious used for release rates is less than 10% (existing effective impervious for buyout area), but the CSMP is going to be somewhat less protective than proposed manual. Without knowing how much of the existing impervious is being redeveloped (replaced), it is not possible to determine which approach would be more protective.

2. The Applicant may propose other BMPs for stormwater treatment if it can be demonstrated that they will result in stormwater discharges that meet the state water quality standards. Any proposed changes are subject to review and approval by Ecology.
3. The Applicant shall submit the final stormwater treatment system design to Ecology for review and approval 60 days prior to the start of construction of the treatment system.