

DEPARTMENT OF ECOLOGY
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Date: May 12, 2000
TO: Joe Dear, Chief of Staff
Office of the Governor
FROM: Ray Hellwig
Regional Director

Hellwig
EXHIBIT NO. 81
1-8-02
M. Green

SUBJECT: May 16, Meeting with Port of Seattle (POS) – re the Third Runway

Following is our assumption regarding the origin of the May 16 meeting, along with background information for likely agenda items:

The Meeting:

M.R. (Mic) Dinsmore, Executive Director for the POS, apparently asked Martha Choe, CTED, to arrange for a meeting between himself, the Governor, and Wes Ulman (?). The meeting has been scheduled for 4:00 p.m. on Tuesday the 16th, somewhere in Seattle (most likely the Seattle CTED offices).

Likely Agenda Items:

We are assuming that the meeting is campaign related, however, according to conversations we have had with senior POS staff and John Savage, an AD reporting to Martha Choe, we expect the agenda will probably include: a.) An opportunity for the Port to once again convey the importance of the 3rd runway project to this region, and their need to better understand Ecology's timetable for decision making (the POS may offer suggestions on how to expedite the decision – there may be allegations that Ecology has expanded issues in an unreasonable manner); and, b.) To discuss whether or not the Puget Sound Regional Council (PSRC) resolution approving SeaTac expansion has any deadlines associated with it (hence the attendance of Wes Ulman?).

- Ecology's "timetable for a decision" (please note: this is not an attempt to "place blame" regarding timing, rather it is a summary of the situation):

Brief (Very Brief) History: Nearly two years ago, in response to substantial pressure from the POS, Ecology issued a heavily conditioned 401 Water Quality Certification for the third runway. Given the overall scope and complexity of the project, and in lieu of having what would normally be considered adequate time to fully evaluate the Port's proposal(s), significant 401 conditions were imposed to ensure compliance with pertinent environmental laws and regulations. After reviewing the conditions, and after

determining there would be additional impacts to aquatic resources from the runway, the POS subsequently withdrew it's request for certification. The POS resubmitted it's request starting a new 1 year evaluation period beginning in September '99.

Current Status of Ecology's Project Review Process: We have been meeting with the POS continuously throughout the last two-plus-years. As we have outlined in previous SeaTac update messages, we are continuing to work through issues and move forward with our review of the Port's proposal(s). The most significant issues revolve around King County's review of the POS stormwater management plan (*see below for more detail on this issue*), adequacy of the aquatic resource management plan, and the possibility of indirect and cumulative impacts from 3rd runway related projects e.g., the temporary 509 access road. Provided the POS is able to submit adequate and timely management plans along with necessary backup information, a decision on the runway project is possible in July '00. (We have advised the POS, provided our requirements are met, that this project can be permitted – we have said that the technical issues are not as complex as those associated with the Battle Mountain Gold project).

Working Relationship with the POS: Our working relationship with the POS remains open and positive, although it is continuously under stress as Ecology works to balance an effort to avoid expanding issues beyond what is reasonable, with a need to be comprehensive in our review. Previously, the POS has argued that we have pushed the boundaries of the law in an unfair manner, we are currently managing this situation as we work through difficult substantive and/or policy issues. At the same time, to ensure that our decision to approve or deny the 401 is legally defensible, we are rigorously and thoroughly evaluating the Port's proposal(s).

The Nub of the Timing Issue: While our working relationship with the POS has been open and positive, the Port has continued to underestimate time and effort required for many of the required deliverables. Consequently, some significant items submitted by the POS have been inadequate and/or untimely. This has had a significant adverse impact on our ability to review the proposal(s) within the timeframe Port officials were hoping for. We have made this project a workload priority for more than two years now, and we are also motivated to reach a decision point, but we are in need of complete and accurate information. The POS has a great amount of control over this process with respect to how and when it submits information to Ecology for review.

- The project review element having the most influence on timing at present is the POS's stormwater management plan. As Ecology did not have resources available immediately to review this key piece of the overall runway proposal, a three-way agreement was negotiated between Ecology, the POS and King County wherein the County agreed to do the review. Ecology still has ultimate oversight responsibility, while the POS is paying the bill.

Recently, the County rejected the first stormwater management plan submitted by the POS, determining that it was inadequate in several areas. The POS has said all along it has intended to develop a plan consistent with the King County Stormwater

Management Manual but, by its own admission, the Port says it substantially underestimated the review standards of the County.

At this point, the POS is attempting to negotiate with the County for flexibility in the review of its second plan submittal. The POS is requesting an alternative application of the modeling parameters relating to base-flows in Miller and Des Moines Creeks. Ecology is acting as an intermediary in the process to help expedite the review process – but it appears this latest endeavor by the POS may add another week or two to the review process. All of this could adversely impact the July '00 timeline for a decision.

- Other examples of late submittals by the POS: In March and April, Ecology cancelled two internal meetings set up to review the POS's response to public comments. These meetings were needed to prepare for external meetings with the POS – but on both occasions the POS failed to submit the information as planned.

On several occasions, Ecology has discussed with the POS the issue surrounding adequate and timely submittal of project review elements.

Public Interest in the Project: Our regulatory review needs to be comprehensive in order to accommodate our various environmental objectives, but also in order to satisfy a very interested public. Runway opponent groups continue to carefully scrutinize our review process for thoroughness. These same groups, as well as interested legislators, are also monitoring our oversight and management of the SeaTac and Maury Island gravel/aquifer studies approved by the legislature and signed by the Governor last year. A thorough review process requires complete and accurate information, and adequate time to review it.

Ongoing Technical Meetings with POS Staff and Consultants: We are meeting with the POS in the a.m. on the 16th to discuss the status of several key issues and identify steps we need to take to resolve outstanding ones.

- About the PSRC resolution deadline:

Ecology staff consulted with Steven Kyle at the PSRC regarding deadline issues. Mr. Kyle has essentially advised that this is a non-issue. The PSRC board updates the regional plan under which the SeaTac resolution rests every three years, but outside of expected steps the POS needs to take with the Highline School District and other interested parties, there are no deadlines on the horizon for the runway project(s).

If you have any questions regarding the above summary, please call me at 425-649-7010. If Ecology is ultimately invited to attend the meeting on Tuesday the 16th, and if Tom Fitzsimmons is unable to attend, I am available and more than happy to attend and provide perspective on behalf of the agency.

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DECISION 0447