

Tom Luster

From: Tom Luster
Sent: Thursday, June 07, 2001 4:27 PM
To: Tom Luster
Subject: more SeaTac...

Left a msg. for Ann K. re: Sen. Patterson's letter request that I review NPDES permit. Ann called back -- I said I would likely respond, and would refer primarily to my earlier letter to the Sen (1/21/01) and my January deposition on the general stormwater permit appeal rather than go into great detail on the particulars of the NPDES permit, but might also look at particulars of the permit from the perspective of how it relates to 401 requirements.

We talked about the issue of whether the construction BMPs in the permit were adequate for purposes of 401, given the history of their use elsewhere resulting in non-compliance with water quality standards. I said in such a situation, the 401 should notch up to require BMPs that are proven to result in compliance, and that the adaptive approach used in NPDES permitting may not be adequate. I would want to see documentation of the BMPs being used in a similar situation and resulting in compliance.

She said this permit modification was pretty much limited to the construction aspects, but that Ecology had informed the Port that the next go-around would require significant notching up of requirements (and that the Port was not happy to hear that).

Also, Ann was concerned about my continued involvement in the project, and we talked some about my role -- I said I wanted to provide a respectful response to Sen. Patterson, and that my main interest was not necessarily Ecology's, SeaTac's or the ACC's positions, or the politics involved, but the appropriate requirements of 401; however, I did want Ecology to make a defensible decision. I said that hopefully, she and I (and any of the 401 reviewers), given the same project and the same set of laws, regs, etc., would come up with the same decision and similar 401 conditions. I also said what a great thing it would be if she and I came to the same conclusions on the proposal, agreed on the decision, and if necessary, came up with similar conditions.

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