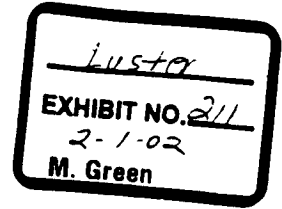




STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600  
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

July 20, 1998



**CERTIFIED MAIL**

Barbara Hinkle  
Senior Specialist, Environmental Services  
Port of Seattle  
Seattle-Tacoma International Airport  
Mezzanine Level, Room MT-6418  
P.O. Box 68727  
17801 Pacific Highway S.  
Seattle, WA 98168-0727

Corps of Engineers  
Regulatory Branch  
P.O. Box 3755  
Seattle, WA 98124-2255  
ATTN: Tom Mueller, Chief

RE: Order #96-4-02325: Water Quality Criteria  
for Port of Seattle - Master Plan Improvements

Consistency Determination

Dear Ms. Hinkle and Mr. Mueller:

The request for certification for proposed work in ~~the~~ <sup>the</sup> Moines Creek  
has been reviewed. On behalf of the State of Washington, the proposed work, as  
conditioned by the enclosed Order, will comply with the provisions of Sections 301, 302,  
303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of  
State law. This letter also serves as the State response to the Corps of Engineers.

Pursuant to 16 U.S.C. 1456 et. seq. (Section 307(c)(3) of the Coastal Zone Management Act of  
1972 as amended), Ecology concurs with the applicant's determination that this work will be  
consistent with the approved Washington State Coastal Zone Management Program. This  
concurrence is based upon the applicant's compliance with all applicable enforceable policies of  
the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution  
Control Act.

This water quality certification and Coastal Zone Consistency Determination is subject to the  
conditions contained in the enclosed Order. Please note that several significant additions to the  
Port's proposals were added as conditions of this Order. In several instances, the Port's  
descriptions of proposed work or commitments to proposed mitigation were inadequate to  
provide Ecology with reasonable assurance that the state water quality standards and other  
applicable requirements would be met. Therefore, Ecology has added numerous specific  
conditions that will allow these requirements to be met.

Please be advised that this Order includes specific penalties for non-compliance. This is based in  
part on the provisional nature of this Order, in which there are several elements of either the  
project description or mitigation that have yet been received in approvable form by Ecology.  
This is also based on the strong likelihood of environmental damage should the Port not meet the

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conditions of this Order in a timely and thorough manner. All penalties will be imposed in compliance with the applicable provisions of state law, including RCW 90.48 and RCW 43.21B.

Please also note that work in wetlands or other waters of the state cannot begin until the Port complies with Conditions #B4b and #G1 of this Order and obtains a Hydraulic Project Approval from the Washington Department of Fish and Wildlife.

If you have any questions, please contact Tom Luster at (360) 407-6918. Written comments can be sent to him at the Department of Ecology, P.O. Box 47703, Olympia WA 98504-7703. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Gordon White, Program Manager  
Shorelands and Environmental Assistance Program

GW:tl

Enclosure

cc: U.S. EPA - Steve Roy  
Ecology, NWRO - Janet Thompson  
WDFW - Phil Schneider  
Cutler & Stanfield, L.L.P. - Barbara Paley

AR 018738

**IN THE MATTER OF GRANTING A  
WATER QUALITY CERTIFICATION  
AND COASTAL ZONE CONSISTENCY  
DETERMINATION TO:** The Port of Seattle  
in accordance with 33 U.S.C. § 1341, FWPCA  
§ 401, RCW 90.48.260 and WAC 173-201A.

**ORDER #96-4-02325**

Construct a third runway and other improvements at Seattle-Tacoma International Airport, King County, Washington. Work will impact between 8 and 12 acres of wetlands, 980 lineal feet of Miller Creek, and 2,280 lineal feet of unnamed tributaries to Miller Creek. Mitigation includes increased stormwater management, stream riparian/buffer enhancements, stream baseflow augmentation, floodplain enhancement, a trust fund for watershed rehabilitation, and construction of between 16 and 24 acres of replacement wetlands at a site in Auburn, Washington.

**TO:** Barbara Hinkle  
Senior Specialist, Environmental Services  
Port of Seattle  
Seattle-Tacoma International Airport  
Mezzanine Level, Room MT-6418  
P.O. Box 68727  
17801 Pacific Highway S.  
Seattle, WA 98168-0727

On December 19, 1997, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). An additional notice of a public hearing and addendum/errata was distributed on March 6, 1998. The proposed project entails placing fill in approximately 8 to 12 acres of wetlands and 3000 linear feet of stream channels for construction of a third runway and other improvements at Seattle-Tacoma International Airport (STIA) pursuant to a Master Plan Update for STIA adopted by the Port of Seattle (the Port) in May 1997 and approved by the Federal Aviation Administration (FAA) in July 1997. Other improvements in the Master Plan Update include construction of a new north terminal and parking garage, a new FAA air traffic control tower, taxiways and runway safety areas, roadway improvements, and a South Aviation Support Area (SASA). Construction of the third runway and other Master Plan Update improvements will involve the placement of approximately 23.6 million cubic yards of fill material, some of which is proposed for excavation from on-site borrow sources on Port property.

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Mitigation includes the following activities in the Miller Creek basin: construction of a new meandering stream bed for approximately 1,350 lineal feet of Miller Creek; creation and long-term protection of enhanced riparian buffers adjacent to Miller Creek, equal to 100 feet on the west side and an average of 100 feet on the east side; and removal of homes, businesses and farms adjacent to the creek (and elimination of fertilizers, pesticides, and other contaminated runoff). Mitigation in the Miller and Des Moines Creek basins includes: increased stormwater management to help reduce existing peak flows in addition to mitigating the impacts of the proposed project, including storm water detention, treatment and discharge to meet state water quality standards; removal of existing water withdrawals from Miller Creek; approximately 3 acres of wetland and floodplain enhancement with long-term protection at the Vacca Farms site on Miller Creek; stream flow augmentation of Des Moines Creek baseflow from a well that currently supplies irrigation water to the Tyes Golf Course; and creation of a \$300,000 trust fund for watershed rehabilitation projects in both basins. Mitigation of impacts to wetland wildlife habitat will also occur through the construction of approximately 16 to 24 acres of replacement wetlands at a 69-acre site in Auburn, King County, Washington.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**CONDITIONS OF ORDER #96-4-02325, WATER QUALITY CERTIFICATION AND COASTAL ZONE CONSISTENCY DETERMINATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, water quality certification and Coastal Zone Consistency Determination is granted to the Port of Seattle (the Port) subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. Des Moines Creek (WRIA #WA-09-2000) and Miller Creek (WRIA #09-2005) are Class AA waters of the state. Certification of this proposal does not authorize the Port to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Port from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

Des Moines Creek has been identified on the current 303(d) list as exceeding state water quality standards for fecal coliform. This proposed project shall not result in further exceedances of this standard.

**B. Wetland, Stream, and Riparian Mitigation:**

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order:

- the Port's JARPA application for the above-referenced project, dated December 18, 1996;
- the Final Environmental Impact Statement;
- the Wetland Mitigation Plan for Proposed Master Plan Update Improvements at Seattle-Tacoma International Airport, dated December, 1996 (the 1996 Wetland Plan);
- the Miller Creek Relocation Plan for Proposed Master Plan Update Improvements at Seattle-Tacoma International Airport, dated December 1996;
- the Des Moines Creek Basin Plan, November 1997;
- the Summary of Amended Wetland Mitigation Approach, dated May 1998; and
- the Amended Wetland Mitigation Plan and Supporting Documents, July 15, 1998 (the Amended Plan), prepared by Parametrix, Inc.

Mitigation elements are more fully described in the above-referenced documents and as revised through the conditions of this Order. Mitigation elements include the following:

- Des Moines Creek: vegetation, buffers, baseflow augmentation, and restrictive covenant.
- Miller Creek Relocation: removal of water withdrawals, vegetation, buffers, and restrictive covenant.
- Miller Creek/Lara Lake Wetland and Floodplain Enhancement: new wetland and floodplain areas, vegetation, buffers, and restrictive covenant.
- Regional Detention Facility: as described in the Des Moines Creek Basin Plan.
- Trust Fund: \$300,000 for watershed rehabilitation in Des Moines and Miller Creeks.
- Auburn Mitigation Site: vegetation, wildlife mitigation, buffers, and restrictive covenant.

There may be additional mitigation required by the Corps of Engineers subsequent to issuance of this Order.

B2. In addition to conditions contained in the above-referenced documents, the following requirements shall be conditions for all mitigation sites:

B2a. "As-Built" Report: an as-built report documenting the final design of each mitigation site shall be prepared when site construction and initial planting is completed. These reports shall include the elements identified in Section 4.4.1 of the 1996 Wetland Plan, as amended in the Amended Plan and the following:

- acreage totals shall be provided for wetlands existing on site and categories of each of the existing wetlands prior to the start of mitigation work;
- final site topography;
- photographs of the area taken from established permanent reference points;
- planting plan showing species, sizes, and approximate locations of plants; and,
- any changes to the mitigation site plan that occurred during construction.

Two copies of each "As-Built" report shall be sent to Ecology's Tom Iuster within sixty days of completing construction and initial planting for each mitigation site.

- B2b. Monitoring Period: In all cases, monitoring as described in the referenced plans and reports and as modified by this Order shall be done annually for no less than ten years.
- B2c. Monitoring Reports: Reports shall be completed to summarize the monitoring information as defined in Section 4.4.2 of the 1996 Wetland Plan, as amended in the Amended Plan, and as revised by this Order. The monitoring reports shall also include the elements listed in Condition #B2a above. Two copies of the monitoring reports shall be sent each monitoring year to Ecology's Tom Luster.
- B2d. Contingency Plan: If Ecology determines that the results of monitoring show that the success criteria established in the 1996 Wetland Plan are not being met, Ecology may require additional monitoring and mitigation. Any changes to the plans, monitoring methods, or additional mitigation measures are subject to review and written approval by Ecology.
- B2e. Plant Inspection: Frequent inspections of plants shall occur during the summer months to ensure water levels are adequate for plant survival.
- B3. Restrictive Covenants: The Port has proposed deed restriction language (Appendix A of the Amended Plan); however this proposed language is inadequate to protect aquatic resource functions and values.

Within 30 days of issuance of this Order, the Port shall provide for Ecology's review and approval revised restrictive covenant language that includes the specific requirements and prohibitions in Conditions #B3a and B3b below. If the proposed language is not adequate, Ecology will respond within fifteen (15) days. Within fifteen (15) additional days, the Port shall submit final language acceptable to Ecology or will be considered in violation of this Order and subject to penalties as described in Condition G of this Order.

- B3a. All mitigation sites: restrictive covenants containing the following requirements and prohibitions shall apply to all the mitigation sites listed in Condition #B1 above:
- The covenants shall prohibit, in perpetuity, future development on these sites that is inconsistent with their use as mitigation sites to provide natural vegetative buffers, floodplain wetlands, flood storage, and riparian corridors. The covenants shall also prohibit development activity in the buffers including clearing, grading, filling, and the construction of any building, structure, or other improvement, except as specified in Condition #B3b below.

- The covenants shall permit the removal of exotic, non-native, invasive vegetation from the buffers in order to meet the mitigation performance standards. Any native woody vegetation that is modified for air safety reasons (e.g., cut or topped) shall be retained on site as downed woody material.
  - In all cases, the restrictive covenants shall run with the land constituting the buffer areas and shall be binding on the Port and its successors and assigns. The covenants shall be prepared and executed in a manner that permits their recording with the real property records of King County.
- B3b. Restrictive covenant conditions for specific mitigation sites:** In addition to those identified in Condition B3a above, the following requirements and prohibitions shall apply to the mitigation sites as described below:
- Miller Creek buffer: There shall be no structures or development activities within fifty (50) feet of either side of the Miller Creek channel. No structures or development (e.g., stormwater facilities, trails, etc.) proposed for the outer areas of the buffers (outside of the interior 50 feet) shall be placed or constructed without review and approval by Ecology.  
  
Existing roads across the Miller Creek buffer (i.e., S 170<sup>th</sup> St., S. 160<sup>th</sup> St., 8<sup>th</sup> Ave. S., and S. 154<sup>th</sup> St. may be retained at their current configuration. Any changes to their current configuration that may affect the functions and values of the buffers (e.g., changes in road width, placement of structures in or adjacent to the roads or within the rights-of-way, etc.) are subject to review and approval by Ecology and may require additional mitigation to replace any lost functions and values of the buffers.
  - Miller Creek/Lake Lora Wetland and Floodplain Enhancement: restrictive covenant conditions will be established through Ecology's review and approval of the mitigation plan required in Condition #B4b below.
  - Des Moines Creek Buffer: the restrictive covenant for this mitigation site will allow development of the flow augmentation mitigation element and the RDF as described in Conditions #B4a and #B5 below.
- B3c.** Within thirty (30) days of the Port completing the construction and initial planting of each mitigation site, the Port shall execute the restrictive covenants, as approved by Ecology, file them with the real property records of King County, and provide two copies of each to Ecology's SEA Program.
- B3d.** Any changes to the restrictive covenants shall require the written approval of Ecology's SEA Program.



**B3e.** Violation of any term of the restrictive covenant shall be considered a violation of this Order. Ecology may require corrective action sufficient to cure the violation, including, without limitation, restoration or remediation of the covenant areas, or removal of any structure, development, or improvement not permitted by the covenant. In addition, Ecology may bring an action to specifically enforce the covenant, to enjoin the violation of the covenant, to require restoration or remediation of the covenant area, or to levy a penalty against the Port or any other party for the violation.

**B4. Additional Conditions of Specific Mitigation Elements:**

**B4a. Des Moines Creek Flow Augmentation:** The Port shall comply with Section 2.1 of the Amended Wetland Mitigation Plan and Supporting Documents, July 15, 1998, with the following additions and clarifications:

- The Port shall provide documentation to Ecology's Tom Luster of any necessary transfer or change of water rights needed to implement this proposed flow augmentation within one year of issuance of this Order.
- Flow augmentation shall be implemented whenever stream flows in Des Moines Creek immediately below the confluence of the East and West Branches drops below 1.0 cubic feet per second, or whenever the water temperature at that location is above 16° Celsius.
- Within 30 days of issuance of this Order, the Port shall provide for Ecology's review and approval, an operations plan describing how the flow augmentation will be implemented. This operations plan shall include the following:
  - Locations of the groundwater well, pumping equipment, and monitoring stations;
  - An implementation and monitoring plan that includes a description of how threshold exceedance will be determined, how augmentation will occur, how to determine when a specific augmentation event may end, and monitoring of downstream conditions necessary to determine compliance with this mitigation element;
  - Maintenance requirements to ensure long-term feasibility of this mitigation measure;
  - Establishment of a trust fund or other financial mechanism adequate to ensure that the operations and maintenance of this flow augmentation mitigation element will occur in perpetuity.

- The Port may propose at some future date an alternative flow augmentation method such as retirement of other water rights in Des Moines Creek. Any alternative flow augmentation must meet the performance standards above (i.e., provide 1.0 cfs of stream flow and provide temperature controls above 16° Celsius), and is subject to review and written approval by Ecology.

B4b. Miller Creek: Within thirty (30) days of the issuance of this Order, the Port shall submit for Ecology's review and approval final wetland mitigation plans for the Miller Creek Buffers and Miller Creek/Lora Lake Wetland and Floodplain Enhancement sites. Ecology will provide necessary corrections within fifteen (15) days. The Port shall then provide the final plans for Ecology's review and approval within an additional fifteen (15) days.

The Port shall not do any work in wetlands or other waters of the state until Ecology has provided written approval of this mitigation plan. Violation of this condition may result in revocation of this water quality certification.

The Port shall use the interagency Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals (Ecology Publication #94-29; available on Ecology's Internet site) for guidance on preparing and submitting final mitigation plan detail requirements.

This plan shall integrate the mitigation elements of the Miller Creek relocation plan with the elements of the Miller Creek Wetland & Floodplain Enhancement plan. Currently, the creek relocation and the wetland/floodplain enhancement proposal are treated as distinct and separate projects. Because they occur in the same location, and clearly influence each other, the final plan shall incorporate the elements of both sites.

The plan shall provide specific details with respect to:

- Restoration goals and objectives;
- Water regime, including any available hydrologic data, and predicted hydrology after excavation;
- Soils data (before and after excavation);
- Final contour details
- Planting plan details, esp. related to expected water regime;
- Section drawings showing relationship of topography to vegetation;
- A 10-year
- Performance standards;
- Contingencies;

- Site protection measures (restrictive covenant language); and,
- "As-built" drawings.

In addition, a minimum fifty-foot (50') vegetated buffer shall be provided at the Miller Creek Wetland and Floodplain Enhancement Site on uplands adjacent to Des Moines Memorial Drive.

**B4c. Auburn Mitigation Site:** Within thirty (30) days of issuance of this Order, the Port shall provide an updated mitigation plan showing the total amount of wetland impacts from the Master Plan Improvement projects (including the Vacca Farms area and surrounding areas in the northwest corner of the STIA), and the resulting wetland mitigation area to be created at the Auburn Mitigation Site. This updated plan shall include a minimum 2:1 ratio of created wetlands and is subject to Ecology's review and written approval.

**B5. Regional Detention Facility (RDF):** The Port shall continue its involvement in the Des Moines Creek Basin Planning Committee and its RDF development as described below. Des Moines Creek is experiencing high storm flows due to development and inadequate stormwater detention facilities within the watershed. It is unlikely that the characteristic uses of Class AA waters of the state (per 173-201A-030(1) WAC) will be met unless new stormwater detention facilities are constructed and operated in a manner that reduces the high storm flows. Additionally, mitigation measures and habitat improvement projects in downstream reaches of Des Moines Creek are likely to have little utility unless the extremely high storm flows are reduced.

**B5a.** The Des Moines Creek Basin planning committee has described a preferred alternative for a RDF (Section 6-1 and Figure 6-1 of the Final Des Moines Creek Basin Plan, November 1997).

As a condition of this Order, the Port will continue in its role as an active participant in the Des Moines Creek basin planning effort to develop the Basin Plan's preferred alternative RDF. In addition, the Port shall make all reasonable efforts to assure that this RDF will be under construction within three years of issuance of this Order. If this RDF is not under construction by that time, Ecology may, through supplemental Order, seek further means to assure timely construction of necessary peak-flow controls.

**B5b.** As a condition of this Order, the Port will also proposed to reserve the site of the Port-preferred RDF alternative. However, Ecology believes that the Port's preferred alternative will result in greater adverse environmental impact to wetlands, will likely cause additional bird strike hazards, will be more costly, and will not resolve detention issues on the East Branch of Des Moines Creek. Therefore, as an additional condition of this Order, the Port shall reserve the site of the Basin Plan-preferred RDF alternative until either the RDF is constructed or

until regional peak flow controls equivalent to those controls provided by the Basin Plan-preferred RDF alternative (i.e., approximately 240 acre-feet of detention storage, peak flow control of both branches of Des Moines Creek, etc.) are provided at another site and the proposed RDF site is no longer needed for this purpose. Any additional wetland impacts of the proposed RDF or of other regional peak flow controls may require additional review and approval by Ecology.

**C. Stormwater Management:**

- C1. The Port shall comply with a final comprehensive stormwater management plan approved by Ecology.**

Within sixty (60) days of issuance of this Order, the Port shall submit to Ecology for review and written approval a Final Comprehensive Stormwater Management Plan for Sea-Tac International Airport Master Plan Improvements. This Final Plan shall contain a comprehensive plan for managing stormwater from the Master Plan projects in compliance with the stormwater source control, detention, treatment, and monitoring requirements in Condition #C4 below. It shall also identify the stormwater detention storage necessary for each major element of the Master Plan Improvements.

- C2. Within ninety (90) days of issuance of this Order, the Port shall submit to Ecology a schedule for construction of all major elements of the Master Plan Development Project, and the stormwater detention storage necessary to meet the requirements of Condition #C4 of this Order. Subsequent changes to this construction schedule shall be submitted to Ecology.**

- C3. Within six (6) years of issuance of this certification, the Port shall complete construction of all facilities in compliance with the approved Final Comprehensive Stormwater Management Plan for Sea-Tac International Airport Master Plan Improvements referenced in Condition #C1 of this Order.**

- C4. Both Des Moines Creek and Miller Creek have been identified as having excessively high storm flows and levels of contaminants above state water quality criteria. These high storm flows and contaminant levels prevent some characteristic uses of Class AA waterbodies from being met. In order for the operation of the proposed project to meet water quality standards, the following requirements related to stormwater detention and treatment shall be implemented:**

- C4a. Stormwater Detention: The Port shall design, construct, operate, and maintain stormwater facilities that control stream erosion by matching developed discharge durations for the range of predeveloped discharge rates from 50% of the 2-year peak flow up to the full 50-year peak flow and by matching the peak discharge**

rates for 2- and 10-year return periods for all stormwater discharges from Sea-Tac International Airport (STIA). For the purpose of calculating runoff characteristics, predeveloped conditions shall be as follows:

- For expansion-areas, the 1994 land use condition shall be the predeveloped condition.
- For the existing facility, predeveloped conditions shall be 100% till-pasture, unless the Port can provide documentation that shows other predeveloped conditions were present before the development of STIA.

C4b. Stormwater Treatment: All stormwater discharges from Sea-Tac International Airport shall be in compliance with state of Washington surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC), ground water quality standards (Chapter 173-200 WAC), and human health based criteria in the National Toxics Rule (Federal Register, Vol. 57, No. 246, Dec. 22, 1992, pages 60848-60923).

The Port shall design, construct, operate, and maintain stormwater treatment facilities that will not result in exceedances of state water quality criteria in receiving waters. All runoff from pollution-generating surfaces shall be treated using water quality treatment BMPs. Pollution-generating surfaces include, but are not limited to: surfaces that are exposed to and/or are subject to aircraft use, vehicular use, or leachable materials, wastes, or chemicals.

Water quality treatment BMPs for each stormwater treatment facility shall consist of no less than any one of the following:

- a large sand filter, a large sand filter vault, or a large linear sand filter.
- a biofiltration swale, followed by a basic sand filter, sand filter vault, or leaf compost filter.
- a filter strip, followed by a linear sand filter with no presettling cell needed.
- a basic wetpond, followed by a basic sand filter, sand filter vault, or leaf compost filter.
- a wetvault, followed by a basic sand filter, sand filter vault, or leaf compost filter.
- A combined detention and wetpool facility, followed by a basic sand filter, sand filter vault, or leaf compost filter.
- a basic sand filter or sand filter vault (preceded by a presettling cell if the sand filter is not preceded by a detention facility), followed by a leaf compost filter.

Any basic sand filters shall be sized so that 90% of the runoff volume will pass through the filter. Any large sand filters shall be sized so that 95% of the runoff volume will pass through the filter.

The Port 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.

- C4c. Source Control Best Management Practices: The Port shall prepare and implement a Stormwater Pollution Prevention Plan for Airport Operations and a Stormwater Pollution Prevention Plan for Construction as required by Special Conditions S12 and S13 of NPDES Permit No. WA-002465-1.
- C4d. The Port shall collect the washoff of pollutants from the runways and taxiways after anti-icing/deicing events to prevent violations of the water quality standards in Miller Creek and Des Moines Creek. The first 1.3 inches of runoff shall be collected from the runways and taxiways after deicing chemicals have been applied. This runoff shall either be discharged to the IWS system or treated separately so as to meet the criteria contained in the state water quality standards (173-201A WAC).
- C4e. Receiving Water Monitoring Plan: The Port shall submit within one (1) year of issuance of this Order a monitoring plan to determine the effectiveness of the Port's stormwater management system. The plan shall be subject to Ecology's review and approval. The plan is meant to provide data on the levels of contaminants of concern in Miller Creek and Des Moines Creek after the Master Plan improvements have been constructed. At a minimum, the plan shall include the following:

- sampling parameters: types of samples – temperature, pH, dissolved oxygen, flow, fecal coliform, turbidity, copper, lead, and zinc. Detection limits shall be sufficient to determine compliance with the water quality criteria of 173-201A WAC.
- frequency – the minimum frequency shall be sufficient to verify compliance with the water quality standards.
- locations – samples shall be taken in Miller Creek and Des Moines Creek immediately downstream from each stormwater discharge point.

Data collected will be used to determine the level of treatment provided by the Port's stormwater facilities and whether the Port is in compliance with state water quality standards. Violation of the standards are subject to penalties under RCW 90.48.

- C5. Hydraulic design reports for each proposed facility shall be submitted to Ecology for review at least ninety (90) days prior to the proposed start of construction of each facility.
- C6. Within thirty (30) days following acceptance by the Port of Seattle of each facility, or portions thereof, a Declaration of Construction shall be completed and signed by the responsible professional engineer for the project and submitted to Ecology.
- C7. Extensions of, or changes to, any of the compliance schedules in Conditions #C1 - C6 above shall only be through written approval of Ecology.

**D. Groundwater Evaluation:**

- D1. The Port shall implement the Schedule for Groundwater Studies (Appendix C of the Amended Wetland Mitigation Plan and Supporting Documents, July 15, 1998) with the following addition:

- The modified Agreed Order shall be signed by the Port and Ecology no later than December 15, 1998. Penalties described in Condition #G8b of this Order shall be imposed by January 1, 1999 if the above date is not met due to any delay by the Port in delivering necessary interim documents or review.

**E. Construction:**

**E1. Construction Stormwater and Erosion Control:**

- E1a. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g., hay bales, detention areas, filter fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites, and shall also comply with all requirements within NPDES Permit No. WA-002465-1.
- E1b. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing

wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.

- E2. During clearing and filling at the various project sites, the Port shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.
- E3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- E4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- E5. The applicant shall provide written notice to Ecology's Tom Luster at least 14 days prior to the start of placing fill in wetlands or other waters of the state, and within 14 days after completion of construction at each project site and mitigation site.
- E6. Borrow sites: The Port has identified the following sites as sources of fill material:
- 80 E. Valley, Sumner, WA
  - 32500 SE Kent-Kangley Rd., Kent, WA
  - 4301 Pioneer Ave., Dupont, WA
  - 6320 Grandview Dr., University Place, WA
  - Dieringer, WA
  - Port property - N. Employee Parking Lot
  - Port property - Parking Garage Expansion Area

The use of fill from other sources that may result in impacts to wetlands or other waters of the state may require additional review and approval by Ecology. The Port shall notify Ecology of other proposed sites and any potential impacts to waters of the state.

- E7. Clean Fill Criteria, Certification, and Monitoring: The Port shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts. The Port shall adhere to the Final Third Runway Soil Fill Quality Criteria provided by memo to Ecology on July 17, 1998, with the following additions and clarifications:
- E7a. Fill material shall be derived from the following sources only:
- State-certified borrow pits
  - Contractor-certified construction sites
  - Port-owned property



E7b. **Documentation:** For materials derived from state-certified borrow pits, the Port and/or its contractors shall provide documentation of state certification to Ecology. For materials derived from contractor-certified construction sites or from Port-owned property, the Port and/or its contractors shall provide documentation to Ecology showing that the materials do not contain toxic materials in toxic amounts.

This documentation shall be provided as described in the memo and shall be delivered to Ecology no later than thirty (30) days after identifying the source or fill and/or use of the fill in the Master Plan Improvement projects.

The Port shall also provide copies of the quarterly updates described in the Final Third Runway Soil Fill Quality Criteria listing the sources, quantities, and placement of fill on Port property.

E7c. Additional conditions or corrective actions may be required based on Ecology's review of the documentation.

E7d. Any changes to the criteria or process described in the Final Third Runway Soil Fill Quality Criteria or in the above conditions is subject to review and written approval by Ecology.

**F. Emergency/Contingency Measures:**

F1. In the event the Port is unable to comply with any of the permit terms and conditions due to any cause, the Port shall:

- Immediately take action to stop, , contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Tom Luster at (360) 407-6918.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with these requirements does not relieve the Port from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- F2. Fuel hoses oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of creeks or wetlands.

G. General Conditions:

- G1. This certificate does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

All conditions in the following permits, approvals, and documents are incorporated herein and are specific conditions of this Order:

- the Final Environmental Impact Statement (under the State Environmental Policy Act) issued for this proposed project;
- the National Pollution Discharge Elimination System (NPDES) Waste Discharge Permit No. WA-002465-1, issued by the Department of Ecology on February 20, 1998 (currently on appeal to the state Pollution Control Hearings Board);
- the Governor's Certification Letter, issued June 30, 1997; and,
- the Hydraulic Project Approval (HPA) to be issued for this project by the Washington Department of Fish and Wildlife (WDFW).

The Port shall not do any work in wetlands or other waters of the state until an HPA has been issued by WDFW. Violation of this condition may result in revocation of this water quality certification.

- G2. The Port will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- G3. The Port will be out of compliance with this certification and must reapply with an updated application if five years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.

- G4. The Port will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- G5. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

To avoid violations or non-compliance with this Order, the Port shall ensure that project managers, construction superintendents, and any necessary staff for the various Master Plan Improvement Projects and mitigation projects have read and understand relevant aspects of this Order, the HPA, the NPDES permit, and any subsequent revisions or Ecology-approved plans.

The Port shall provide to Ecology a signed statement from each project manager and construction superintendent for the various Master Plan Improvement Projects and mitigation projects that they have read and understand the conditions of the above-referenced permits, plans, and approvals. These statements shall be provided to Ecology no less than seven (7) days before construction begins at each project or mitigation site.

- G6. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.
- G7. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.
- G8. Violations of this Order: Violations of this Order shall be addressed in accordance with the requirements of RCW 90.48 and RCW 43.21B. Upon Ecology's determination that the Port is violating any condition of this Order, it shall serve notice of the violation to the Port by registered mail.

**G8a.** Violation or non-compliance of Conditions #E1 - E4, #E7, #F1 - F2 of this Order are considered to be significant and egregious, and shall result in the following penalties:

- for the first 30 days of violation or non-compliance, no less than one thousand dollars (\$1000) per day per violation.
- If the Port remains out of compliance for more than 30 days, the penalty shall be increased to no less than five thousand dollars (\$5000) per day per violation for each day of continued non-compliance.

Ecology has the discretion to set the penalty amount up to the maximum allowed under RCW 90.48.

**G8b.** Violation or non-compliance of any other condition of this Order shall result in the following penalties:

- for the first 30 days of violation or non-compliance, no less than five hundred dollars (\$500) per day per violation.
- If the Port remains out of compliance for more than 30 days, the penalty shall be increased to no less than one thousand dollars (\$1000) per day per violation for each day of continued non-compliance.

Ecology has the discretion to set the penalty amount up to the maximum allowed under RCW 90.48.

**G8c.** If Ecology determines that the Aviation Division of the Port is out of compliance with any conditions of this Order, no additional applications from the Aviation Division of the Port for water quality certifications will be reviewed until the existing non-compliance is resolved to the satisfaction of Ecology.

**G8d.** Ecology reserves the right to revoke this certification if the Port fails to meet the compliance schedule requirements of Conditions B, C, and/or D of this Order. Compliance with this schedule is necessary for Ecology to have reasonable assurance that the proposed project will be constructed and operated so as to meet state water quality standards and other appropriate requirements of state law.

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**Appeal Process:**

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Enforcement Section, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated July 20<sup>th</sup>, 1998 at Lacey, Washington.

Gordon White  
Gordon White, Program Manager  
Shorelands and Environmental Assistance  
Program  
Department of Ecology  
State of Washington

AR 018757