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EXHIBIT NO. 285
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POLLUTION CONTROL HEARINGS BOARD
FOR THE STATE OF WASHINGTON

AIRPORT COMMUNITIES COALITION,

Appellant,

v.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY, and
THE PORT OF SEATTLE,

Respondents.

PCHB No. 01-160

ACC'S INTERROGATORIES NOS. 1-19
AND REQUESTS FOR PRODUCTION
NOS. 1-6 TO PORT OF SEATTLE AND
PORT OF SEATTLE'S OBJECTIONS
AND RESPONSES THERETO

The Port of Seattle ("Port"), by and through its counsel of record, submits the following objections and responses to ACC's Interrogatories Nos. 1-19 and Requests for Production Nos. 1-6 to Port of Seattle ("ACC's First Requests"). To set off the Port's objections and responses from the text of the ACC's First Requests, the Port's objections and responses will be set forth in bolded and single-spaced text.

The Port will interpose its General Objections to ACC's First Requests prior to providing particularized objections and responses to any individual interrogatory or request for production propounded by ACC. The fact that a particular general objection is not identified in response to a particular interrogatory should not be interpreted as a waiver of any general objection; furthermore, nothing set out in specific objections constitutes a waiver of any general objections.

TO: PORT OF SEATTLE ("Port");

AND TO ITS COUNSEL: Jay Manning and Gillis Reavis, Marten Brown, Inc.;
Roger Pearce and Steven Jones, Foster Pepper & Shefelman;
Linda Strout and Traci Goodwin, Port of Seattle

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES

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INSTRUCTIONS

Interrogatories. Pursuant to the PCHB's October 30, 2001, Prehearing Order and to Civil Rules 26 and 33, you are requested to answer the following interrogatories in writing and under oath and, after you and your attorney sign them below, to serve a copy upon the undersigned counsel at the offices of Helsell Fetterman LLP, 1500 Puget Sound Plaza, 1325 Fourth Avenue, Seattle, Washington 98111. You must serve your answers within thirty (30) days after the interrogatories are served on you.

These interrogatories are continuing interrogatories, and require you to provide supplemental answers which set forth any information within the scope of the interrogatories acquired or discovered by you following service of your original answers, as required by Civil Rule 26(e).

Space for your answers has been provided after each interrogatory. If the space provided for the answer is not sufficient, please attach additional pages to the page on which the answer is set forth.

In answering these interrogatories, you are to furnish all information that is available to you, not just information that is of your own knowledge. This means that you are to furnish information which is known by or in the possession of you and your employees or agents.

Requests for Production of Documents. Pursuant to the PCHB's October 30, 2001, Prehearing Order and Civil Rules 26 and 34, you are also requested to produce for inspection and copying the documents described in each request made below. True and accurate copies of the requested documents may be produced with the answers to these interrogatories, but in any event shall be made available within thirty (30) days after these requests are served on you. These requests for production are directed to you and to your employees and agents, including all persons acting on your behalf. You are required to produce all documents within your care, custody or control, including, but not limited to documents maintained by an employee, agent or

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 2

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1 representative, and documents maintained by any third party from whom you have a contractual
2 or other right to require production.

3 These requests for production are intended to encompass the original document and all
4 copies that differ from the original in any respect, for example, by reason of notations made on the
5 copy.

6 These requests are also intended to encompass all documents of any nature which are now
7 or have at any time been within your care, custody, or control. If a document is no longer within
8 your care, custody, or control, state what disposition was made of it, who disposed of it, the
9 reason for such disposition, and the date upon which it was so disposed.

10 **Identification of Privileged Documents:** If you contend that documents encompassed by
11 any request are privileged, in whole or in part, or if you otherwise object to production of such
12 documents, then with respect to such documents:

- 13 1. state with particularity the reason or reasons for your objection and/or the nature of
14 any privilege asserted; and
- 15 2. state all other information necessary to identify the documents to meet the
16 requirements for inclusion in a motion for production pursuant to Civil Rule 37.

17 **DEFINITIONS**

18 Included below are definitions of the terms used in these interrogatories and requests for
19 production. Please read these definitions carefully, because some of the terms used in these
20 interrogatories and requests for production are given definitions which may be more expansive
21 than the definitions which those terms are given in common usage.

- 22 1. "401 Certification" shall mean, unless otherwise specified, the Department of
23 Ecology's certification of the Port of Seattle's ("Port") Third Runway Project pursuant to the
24 provisions of 33 U.S.C. 1341 (FWPCA § 401) and shall include the 401 Certification for the Third
25 Runway Project issued September 21, 2001, the 401 Certification for the Third Runway Project
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PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 3

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1 issued August 10, 2001, all applications submitted in support 401 certification of the Third
2 Runway Project (including but not limited to applications for the aforementioned
3 401 Certifications and any prior applications for 401 Certification of the Third Runway Project),
4 all hearings conducted on any 401 Certification application for the Third Runway Project, and all
5 submittals supporting any of the 401 Certification applications for the Third Runway Project.

6 2. "And" shall also mean "or," and "or" shall also mean "and."

7 3. "Communication" means any writing or any oral conversation including, but not
8 limited to: telephone conversations, meetings, letters, telegraphic and telex communications,
9 electronic communications, and all documents concerning such writing or such oral conversation.

10 4. "Describe," when used in reference to matters of fact or contention, means to state
11 every material fact and circumstances specifically and completely (including, but not limited to,
12 date, time, location, and the identity of all participants), and whether each such fact or
13 circumstance is stated on knowledge, information, or belief, or is alleged without foundation.

14 5. "Document" includes, but is not limited to, the original as well as any copies of
15 any agreement, appointment book, blueprint, book, brochure, cassette, chart, check, check stub,
16 compute disc or index thereto, computer printout, computer program, computer tape or disc,
17 contact, correspondence, declarations, desk calendar, drawing, e-mail message, graph, index,
18 invoice, lease, ledger, letter, log book, manual, map, memorandum, message, minutes, minute
19 book, model, note, periodical, phonorecord, photograph, pleading, purchase order, report,
20 reproduction, schedule, sketch, statement, study, summary, survey, tape, telegram, telex, time
21 sheet, working paper, and any and all other written, printed, typed, taped, recorded, transcribed,
22 punched, filmed, digitized, or graphic matter, however produced or reproduced.

23 If any document has been prepared in several copies or additional copies have been made,
24 and the copies are not identical, each nonidentical copy is a separate "document," and should be
25 produced for inspection and copying.

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ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 4

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1 6. **"All Related Documents"** means any document that refers to, relates to, addresses,
2 or reflects the subject matter of the interrogatory.

3 7. **"Identify"** or **"identity,"** when applied to a person, requires that you give the
4 person's full name, residence address, residence telephone, business or occupation, employer, job
5 title or description, business address, and business telephone. If you do not have current
6 information on the person being identified, then given the last known information.

7 8. **"Identify"** or **"identity,"** when used in reference to a **business organization, or**
8 **other entity,** means to give the legal name of the entity, a description of its nature (e.g.,
9 corporation, partnership, joint venture, etc.), any business or assumed names under which it does
10 business, its principal place of business, and the address of the office(s) of such entity which are
11 involved in the transaction about which the interrogatory or request is seeking information.

12 9. **"Person"** shall include any individual, corporation, partnership, association, or any
13 other entity of any kind.

14 10. **"State with particularity,"** when used in reference to a matter of fact or
15 contention, means to state every material fact and circumstance specifically and completely
16 (including but not limited to date, time, location, and the identity of all participants), and whether
17 each such fact or circumstance is stated on knowledge, information, or belief, or is alleged without
18 foundation.

19 11. **"Third Runway Project"** shall mean, for purposes of these Interrogatories and
20 Requests for Production, the Port's proposal and efforts to construct a third runway at the Seattle
21 Tacoma International Airport and Master Plan Update projects, including but not limited to all
22 projects included in the October 25, 2000 Joint Aquatic Resources Permit Application for the
23 project, as amended.

24 12. The plural shall include the singular, and the singular shall include the plural.
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PORT'S GENERAL OBJECTIONS TO ACC'S FIRST REQUESTS

The Port interposes the following general objections to the ACC's First Requests, including the foregoing "definitions," and to each and every request. Each of these General Objections applies to each discovery request, in addition to specific objections asserted to particular requests, and nothing set out in specific objections constitutes a waiver of the general objections.

1. The Port objects to each and every interrogatory and request for production contained in ACC's First Requests on the grounds that the Port has not completed its discovery, factual investigation or preparation for hearing on the merits in this matter, and these activities are ongoing. The Port has conducted a diligent search and has made a reasonable inquiry in an effort to respond to ACC's First Requests, subject to the objections set forth below. However, these responses are based only upon information available to and specifically known to the Port as of the date of these responses. The Port's responses are at all times subject to such additional and different information as may be disclosed during ongoing discovery and factual investigation. On that basis, the Port reserves its right, as to each and every interrogatory, to supplement, amend, change and/or modify its responses as new, additional and/or different information and/or documents may become known to it, and to introduce at any hearing, trial or other proceeding relating to this matter facts, documents and other tangible things not identified as of the date of these responses.

2. The Port objects to ACC's First Requests, and each of them, to the extent that they seek the disclosure of information or documents protected from disclosure by the attorney-client privilege, the work product doctrine and/or any other recognized privilege or immunity. The inadvertent disclosure of any such information or documents shall not constitute a waiver of any privilege or of any right that the Port may have to object to the use of any such information or document. The Port will interpret each Request in a manner that the request does not seek privileged information or documents.

3. The Port objects to ACC's First Requests, and each of them, to the extent that they seek materials that are beyond the scope of discovery permitted on the grounds that ACC's First Requests are overbroad, unduly burdensome, oppressive, and seek information that is neither relevant to the subject matter of the pending litigation nor reasonably calculated to lead to the discovery of relevant and/or admissible evidence.

4. The Port objects to ACC's First Requests, and each of them, to the extent that they seek information that is private, confidential, or proprietary business information on the grounds that such information is privileged and that no protective order has yet been entered in this case that would protect confidential or proprietary information in the event it was disclosed in response to one of ACC's First Requests.

1 5. The Port objects to ACC's First Requests, and each of them, to the extent that
2 in the context of this case, they are overbroad, unduly burdensome, oppressive, vague and/or
ambiguous.

3 6. The Port objects to ACC's First Requests, and each of them, to the extent that
4 the information and/or documents requested are so overbroad that it is impractical and
5 burdensome for the Port to provide a complete response, although the Port has and will
6 continue to make reasonably diligent, good faith efforts to provide as complete a response to
each interrogatory as is practicable.

7 7. The Port objects to requests for production contained in ACC's First Requests
8 to the extent that any of the requests for production call for production that exceeds the
9 bounds set by Civil Rule 34. To the extent practicable, and as required by Civil Rule 34, the
10 Port will produce responsive documents as they are kept in the usual course of business or
11 segregated by request for production, at the Port's option. Subject to these General
12 Objections, the Port will produce copies of documents as required by the Civil Rules.

13 8. Insofar as certain requests for production in ACC's First Requests are vague
14 and ambiguous, or employ terms that the Port cannot define or understand, the Port will
15 object on the grounds that the requests are vague and ambiguous. Subject to and without
16 waiver of these General Objections, the Port will make reasonable assumptions, where
17 possible, as to ACC's intended meanings and will respond accordingly. If ACC
18 subsequently asserts an interpretation of any discovery request that differs from that
19 assigned by the Port, then the Port reserves the right to supplement these objections and
20 responses.

21 9. The foregoing general objections are hereby incorporated in full in the
22 response to each separate discovery request set forth below, and any information or facts
23 disclosed in these responses is subject to the limitations and objections set forth herein.

24 INTERROGATORIES AND REQUESTS FOR PRODUCTION

25 INTERROGATORY NO. 1: For each person who supplied information for or answered
26 each Interrogatory or Request for Production:

- 27 a. identify the person;
- 28 b. identify which Interrogatory or Request for Production the person answered or
29 supplied information for; and
- 30 c. state with particularity what information each person provided.

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 7

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1 ANSWER:

2 Steven Jones, Roger Pearce, Tom Walsh, Jay Manning, and the experts listed in the
3 answers to interrogatories below.

4
5 REQUEST FOR PRODUCTION NO. 1: Please produce all documents within your
6 control relating or otherwise pertaining to facts stated in your answer to the preceding
7 interrogatory.

8 RESPONSE:

9 In addition to and without waiving its General Objections, the Port objects to this
10 request as unintelligible. There are no documents relating to the question of who was
11 consulted in connection with the preparation of these responses.

12 INTERROGATORY NO. 2: Identify each person you intend to use as an expert witness
13 in this matter.

14 ANSWER:

- 15 1. Paul Agid
16 Port of Seattle
17 Aviation Project Management Group
18 17900 International Blvd., Suite 301
19 SeaTac, WA 98188
- 20 2. Barry R. Christopher, Ph.D. PE
21 210 Boxelder Lane
22 Roswell, GA 30076
- 23 3. James C. Kelley, Ph.D.
24 Parametrix, Inc.
25 5808 Lake Washington Blvd. NE, Suite 200
26 Kirkland, WA 98033-7350
4. Dr. James K. Mitchell, Ph.D., PE
 Geotechnical Engineer
 209 Mateer Circle
 Blacksburg, VA 24060

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15. **Mary Vigilante**
Synergy Consultants, Inc.
4742 42nd Ave. SW, Suite 9
Seattle, WA 98116
 16. **William Dunlay, Ph.D.**
Leigh Fisher Associates
P.O. Box 8007
San Francisco International Airport
San Francisco, CA 94128
 17. **Mike Riley, P.E.**
S.S. Papadolpolous & Associates, Inc.
222 Kenyon Street, N.W.
Olympia, WA 98502
 18. **Steve Swenson, P.E.**
R.W. Beck, Inc.
1001 4th Avenue, Suite 2500
Seattle, WA 98104

12 **The Port may name additional experts as necessary to rebut claims and allegations**
13 **raised by ACC experts and to rebut and/or address issues uncovered during the process of**
14 **discovery, including depositions of ACC's proposed witnesses.**

14 **INTERROGATORY NO. 3: For each person identified in the preceding interrogatory,**
15 **state with particularity**

- 16 a. **the subject matter on which the expert is expected to testify;**
17 b. **the substance of the facts and opinions to which the expert is expected to testify;**

18 **and**

- 19 c. **a summary of the grounds for each opinion.**

20 **ANSWER:**

21 **See all General Objections. In addition to, and without waiving any of those General**
22 **Objections, the Port responds as follows:**

- 23 1. **Paul Agid. Mr. Agid will testify regarding the Agreed Order entered into**
24 **between the Port and the Department of Ecology regarding the clean up of contaminated**
25 **sites within the Airport Operation and Maintenance Area, the likelihood of migration of**
26 **that contamination, particularly in light of the Port's construction of Master Plan Update**
projects. Mr. Agid will testify that the Port is currently abiding by the terms of the Agreed
Order, is currently working on identification and clean up of contaminated sites and that

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 10

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1 there is no likelihood of migration of contamination based on the construction of MPU
2 projects. The grounds for Mr. Agid's opinions are the Agreed Order, his supervision and
3 work on testing of sites at the Airport, his ongoing work with Ecology on the implementation
4 of the Agreed Order and his familiarity with the Master Plan Update projects, including the
5 third runway embankment.

6
7 2. Barry Christopher, Ph.D. Mr. Christopher is one of the members of the
8 Technical Review Panel who have reviewed the design of the MSE wall. Mr. Christopher
9 will testify regarding the design of the MSE wall. He will testify that the MSE wall design is
10 sound, complies with appropriate engineering standards and is appropriately designed to
11 withstand likely seismic disturbances. His testimony will be based on his own review of the
12 wall design as part of the Technical Review Team.

13
14 3. James C. Kelley, Ph.D. Mr. Kelley was the project lead at Parametrix, Inc. on
15 the delineation of wetlands, assessment of wetland function and design and implementation
16 of the Port's Natural Resources Mitigation Plan ("NRMP"). He will testify that the Port's
17 NRMP will provide complete mitigation of all wetland functions for wetlands that will be
18 impacted in connection with the Port's proposed MPU projects, the design of the NRMP,
19 and the mitigation proposed for those wetlands. Mr. Kelley may also provide testimony
20 regarding other impacts of the project on wildlife habitat and the mitigation of those
21 impacts. His testimony will be based on his own observations and sampling, as well as his
22 review of field data and samples collected by others supervised by him or by other Port
23 consultants, the scientific literature and his own expertise and experience as a wetlands
24 biologist.

25
26 4. Dr. James K. Mitchell, Ph.D., P.E. Dr. Mitchell is a member of the Technical
Review Panel who have reviewed the design of the MSE wall. Dr. Mitchell will testify
regarding the design of the MSE wall. He will testify that the MSE wall design is sound,
complies with appropriate engineering standards and is appropriately designed to withstand
likely seismic disturbances. His testimony will be based on his review of the wall design as
part of the Technical Review Team for the MSE wall.

5. William Stubblefield, Ph.D. Dr. Stubblefield will testify regarding the
application of numeric water quality standards in the context of the Port's stormwater
management system and the construction and operation of the Port's proposed MPU
projects. He will also testify regarding the preparation of a Water Effects Ratio and
development site-specific water quality standards at the Port, consistent with the
requirements imposed in the 401 Certification. The substance of Dr. Stubblefield's
testimony will be that the Port can comply with applicable water quality standards and that,
once a WER has been completed, the Port will be able to comply with any site-specific water
quality standards. Dr. Stubblefield's testimony will be based on his own review of Port
records, sampling conducted for the preparation of the WER, and his professional
experience as a practicing professional in the field of water quality.

1 6. Donald E. Weitkamp, Ph.D. Dr. Weitkamp will testify regarding wildlife
2 habitat in Miller, Walker and Des Moines Creeks and the impact of the Port's proposed
3 MPU projects on that habitat. The substance of Dr. Weitkamp's testimony will be that the
4 construction of the MPU projects will not have a deleterious effect on aquatic habitat,
5 resources and fauna in those creeks. His testimony will be based on his review of
6 precipitation records, review of the proposed improvements, the NRMP and Low Flow
7 Mitigation Plan, the Biological Assessment prepared for the federal resource agencies, along
8 with his professional experience as a working professional in the field of water quality,
9 fisheries biology and wildlife habitat.

7 7. Paul S. Fendt, PE. Mr. Fendt is the project manager at Parametrix, Inc. for
8 the design of the Port's Comprehensive Stormwater Management Plan and the Port's Low
9 Flow Mitigation Plan. The substance of Mr. Fendt's testimony will concern the design of the
10 CSMP and the Low Flow Mitigation Plan, and the fact that both of those plans will be
11 effective in managing and mitigating stormwater impacts arising from the Port's proposed
12 MPU projects so that the stormwater can meet state water quality standards. Mr. Fendt
13 will also testify regarding the modeling of the low flow impacts arising from the Port's MPU
14 projects. His testimony will be based on data collected by him or by those he supervised or
15 by other Port consultants, his own work or the work of those he supervised and his
16 professional experience.

13 8. Michael Bailey, P.E. Mr. Bailey is the project manager on the design of the
14 embankment and the MSE wall at Hart Crowser. The substance of Mr. Bailey's testimony
15 will concern the design of the embankment and MSE wall. Mr. Bailey will testify that the
16 design of the embankment and the MSE wall is sound, complies with appropriate
17 engineering standards and is appropriately designed to withstand likely seismic
18 disturbances. His testimony will be based his own review of data collected by himself or
19 those he supervises, as well as review of data and design materials collected and produced by
20 other Port consultants.

18 9. Norman Crawford, Ph.D. Dr. Crawford is a principal at Hydrocomp, Inc. He
19 was engaged by the Port to undertake an independent review of modeling done for the Low
20 Flow Mitigation Plan and to make recommendations on that modeling based on his review.
21 The substance of Dr. Crawford's testimony will be that the modeling undertaken for the
22 Low Flow Mitigation Plan represents an accurate depiction of the likely impacts of the
23 Port's MPU projects on Des Moines, Miller and Walker Creeks. His testimony will be based
24 on the modeling data supplied to him by the Port's consultants and his own application of
25 the HSPF model to that data.

23 10. John Strunk. Mr. Strunk is a professional geologist with Associated Earth
24 Sciences, Inc. He was engaged by the Port in connection with an in-depth groundwater
25 evaluation at the Airport. Mr. Strunk will testify regarding the likelihood of any existing
26 contamination to migrate from the isolated, contaminated sites on the Airport, particularly
 in the AOMA area, to any area water resources as a result of the construction activities

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 12

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1 associated with the MPU projects. Mr. Strunk will testify that there is no reasonable threat
2 of any such migration. Mr. Strunk's testimony will be based on his extensive work at the
3 Airport, the documents and studies described in his September 28, 2001 declaration, and his
4 professional experience.

5 11. Joseph Brascher. Mr. Brascher is employed by AquaTerra Consultants. He
6 was one of the principal modelers for the HSPF modeling done in connection with the Port's
7 Low Flow Mitigation Plan. The substance of Mr. Brascher's testimony will concern how
8 that modeling was conducted, revisions to the modeling based on Mr. Brascher's own
9 internal review of the model and calibration of the model with existing stream data, as well
10 as conclusions reached in joint sessions with representatives from Parametrix, Ecology and
11 King County. His testimony will be based on his own review and modeling of data supplied
12 to him by Parametrix and the Pacific Groundwater Group.

13 12. Charles Ellingson. Mr. Ellingson is employed by Pacific Groundwater Group.
14 Mr. Ellingson was one of the principal modelers for the Hydrus and Slice modeling done in
15 connection with the Port's Low Flow Mitigation Plan. The substance of Mr. Ellingson's
16 testimony will concern how that modeling was conducted, revisions to the modeling based on
17 the calibration of the model with existing stream data, as well as conclusions reached in joint
18 sessions with representatives from Parametrix, Ecology and King County. His testimony
19 will be based on his own review and modeling of data supplied to him by Parametrix and
20 Aqua Terra Consultants.

21 13. Jan Cassin, Ph.D. Dr. Cassin is a wetland ecologist. She has worked on
22 elements of the Natural Resources Mitigation Plan prepared by the Port of Seattle's
23 consultants for the Washington Department of Ecology and the U. S. Army Corps of
24 Engineers. She will testify that the NRMP will mitigate all wetland functions impacted by
25 the projects for which a Clean Water Act §404 permit and the §401 Certification is
26 required. Her testimony will be based on the NRMP, the wetland studies conducted by Port
27 consultants on which that NRMP is based, and on her professional experience.

28 14. Charles Wisdom, Ph.D. Dr. Wisdom is a water chemistry expert. He will
29 testify regarding ACC's allegations regarding the quality of stormwater discharges from the
30 proposed projects for which a Clean Water Act §404 permit is required. He will testify that
31 there is reasonable assurance that those projects will be able to meet state water quality
32 standards. His testimony will be based on the representative monitoring conducted for the
33 WER study, on his own review of Port records, and on his professional experience as a
34 practicing professional in the field of water quality.

35 15. Mary Vigilante. Ms. Vigilante is a principal at Synergy Consultants, Inc. and
36 is an expert in airport operations and management. Ms. Vigilante will provide testimony on
37 the environmental review undertaken pursuant to SEPA and NEPA for the Port's Master
38 Plan Update development projects, including the projects for which a §404 permit and §401
39 certification is required. Ms. Vigilante will provide rebuttal testimony, if needed, to address

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 13

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AR 019851

1 issues raised by Stephen Hockaday, who was originally listed as a witness by ACC,
2 regarding the legal adequacy of the NEPA and SEPA review done for the project. Ms.
3 Vigilante's testimony will be based on her review of SeaTac International's operations data,
4 on the EISs, RODs, re-assessments, and addenda conducted by the FAA and Port, and on
5 her experience as a working professional in the field of airport operations and management.

6
7 16. Dr. William Dunlay. Dr. Dunlay is a principal in the firm of Leigh Fisher
8 Associates and is an expert on airport operations and management. Dr. Dunlay may
9 provide rebuttal testimony, if required, on the legal adequacy of the environmental review
10 conducted pursuant to NEPA and SEPA by the FAA and Port of Seattle for the Port's
11 Master Plan Updated development projects. The substance of Dr. Dunlay's testimony will
12 concern the impact on demand generally within the aviation industry in light of the events of
13 September 11, general testimony regarding the ongoing health and financial strength of the
14 aviation industry, delay measurement, the possibility of addressing bad weather operating
15 delay at SeaTac International through technology and demand management measures, and
16 the adequacy of the forecasts. Dr. Dunlay may also provide rebuttal testimony, if needed, to
17 address issues raised by Stephen Hockaday, who was originally listed as a witness by ACC.
18 Dr. Dunlay's testimony will be based on his review of SeaTac International's operations
19 data and on his experience as a working professional in the field of airport operations and
20 management.

21
22 17. Mike Riley, P.E. Mr. Riley is a professional engineer with the firm of
23 Papadopolous & Associates. Mr. Riley will provide testimony regarding the hydrologic
24 modeling for the proposed embankment and third runway portion of the Port's Master Plan
25 Update projects. His testimony will be that the modeling is appropriate and provides a
26 reasonable estimate of the effects of the proposed projects. His testimony will be based on
the modeling information provided to him by the other water quality professionals who
conducted the modeling. Mr. Riley may also provide testimony regarding the potential for
any contaminant transfer from the fill associated with the embankment project. His
testimony will be that the project conditions are sufficient to protect water quality. His
testimony will be based on project specifications and conditions and on his professional
expertise and experience.

18
19 18. Steve Swenson, P.E. Mr. Swenson is a professional engineer and an expert in
20 the field of stormwater management. Mr. Swenson will testify regarding the proposed
21 stormwater management plan and offset mitigation proposal for the summer low
22 streamflow impacts. He will testify that the project is feasible to site and construct as
23 planned. His testimony will be based on the project plans and specifications and on his
24 professional expertise and experience.

25
26 REQUEST FOR PRODUCTION NO. 2: Please produce all documents relied on or
reviewed to form the basis of the opinions, facts or other testimony referenced in the preceding
interrogatory. In lieu of producing the documents requested in this request for production, you

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PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 14

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1 may provide a list of responsive documents provided that the actual documents will be made
2 available upon one business day's notice.

3 RESPONSE:

4 See all General Objections. In addition to, and without waiving those General
5 Objections, the Port objects to this request on the grounds that, in many instances, the work
6 on which the witness will be providing testimony is ongoing, and so identification of all
7 documents which may form the basis of the expert's opinion is impossible. The Port
8 specifically objects to ACC's request that the "actual documents will be made available
9 upon one business day's notice."

10 As stated by ACC in its discovery responses, the documents in this case are in the
11 public domain and are readily accessible to the parties and need not be produced in
12 discovery. The Port also notes that negotiations are ongoing between ACC and the Port on a
13 stipulation regarding document discovery. The Port will comply with any stipulation
14 ultimately agreed to by the parties and produce documents in accordance with that
15 stipulation. Pursuant to CR 33(c), non-privileged documents will be produced for inspection
16 and copying in the same manner as they are kept within the ordinary course of business, at a
17 mutually convenient time and place.

18 INTERROGATORY NO. 4: For each person identified as an expert witness in
19 Interrogatory No. 2, identify each instance with in the last ten (10) years in which the person
20 provided opinions or other written or oral testimony before a court of any jurisdiction, the
21 Pollution Control Hearings Board, or any other administrative review panel/board/officer, such
22 identification to include:

- 23 a. the case/matter name;
- 24 b. the client/party represented;
- 25 c. the date the opinion or testimony was provided;
- 26 d. the form of testimony, including but not limited to deposition, trial/hearing
testimony, declaration or affidavit;
- e. a description of the nature of the testimony/opinion; and
- f. each document in your control describing or recording this testimony.

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 15

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1 **ANSWER:**

2 **See General Objections. The Port is assembling this information from its designated**
3 **expert witnesses and will supplement this response as soon as that information has been**
4 **received.**

5
6
7 **INTERROGATORY NO. 5: Describe with particularity all supporting materials**
8 **submitted with the Coastal Zone Management Act (16 U.S.C. §§ 1451-1464) ("CZMA")**
9 **consistency certification for the Third Runway Project.**

10 **ANSWER:**

11 **The Port's certification of consistency with the Coastal Zone Management Act was**
12 **included as part of the Port's JARPA application and is readily available to ACC. The**
13 **Port's certification of compliance is supported by numerous materials contained within both**
14 **the Port's files and Ecology's files.**

15 **The enforceable policies under the CZMA are the Clean Air Act, Clean Water Act,**
16 **and SEPA/NEPA. Consistency with the Clean Air Act has been found by the FAA on two**
17 **different occasions when the FAA has issued its Record(s) of Decision. Ecology's review and**
18 **approval of CZMA certifications is categorically exempt under SEPA, WAC 197-11-885(3).**
19 **Although SEPA and NEPA compliance is not an appropriate topic for this appeal, the Port**
20 **notes that the Puget Sound Regional Council (and its predecessor Puget Sound Council of**
21 **Governments, the FAA and the Port have conducted extensive review pursuant to NEPA**
22 **and SEPA, including several EISs (all of which have been appealed by the ACC and held to**
23 **be legally adequate). The Port's SEPA/NEPA compliance is documented in the FEIS and**
24 **FSEIS. The Port and FAA have also conducted a number of environmental reassessments**
25 **and environmental addenda to those EISs, all of which are in the possession of ACC, which**
26 **has commented on each and every document to Ecology and/or the Army Corps of**
Engineers. With respect to compliance with the Clean Water Act, all elements of the project
that were addressed in Ecology's §401 Certification and all files pertaining to that
certification support the Clean Water Act determination. Accordingly, the Port objects to
this portion of the interrogatory as being unnecessarily broad and unduly burdensome.

24 **REQUEST FOR PRODUCTION NO. 3: Please produce all documents within your**
25 **control upon which you rely in your answer to the proceeding interrogatory. In lieu of producing**
26

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 16

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1 the documents requested in this request for production, you may provide a list of responsive
2 documents provided that the actual documents will be made available upon one business day's
3 notice.

4 RESPONSE:

5 Without waiving its General Objections, the Port states that both of the FAA's
6 Record of Decisions are already in the possession of ACC and have been cited by ACC in
7 comments provided to both Ecology and the Corps of Engineers. Likewise, ACC has a copy
8 of Ecology's §401 Certifications issued August 10, 2001 and September 21, 2001. Both of
9 those Certifications outline the compliance of the MPU projects with the Clean Water Act.
10 The other documents that have a bearing on compliance with the CZMA are referred to in
11 the Port's two-volume Response to Comments, which ACC already has a copy of, or in the
12 publicly disseminated reports that ACC also has within its possession.

13
14 The Port notes that negotiations are ongoing between ACC and the Port on a
15 stipulation regarding document discovery. The Port will comply with any stipulation
16 ultimately agreed to by the parties and produce documents in accordance with that
17 stipulation.

18
19 INTERROGATORY NO. 6: Identify with particularity each structure related to the Port's
20 Third Runway Project or master plan improvements that may impound ten acre-feet or more of
21 water (or any substance in combination with water such as, but not limited to, liquid or slurry).

22 ANSWER:

23 The structures to which dam safety regulations would be applicable are identified in
24 Appendix D of the Port's Comprehensive Stormwater Management Plan.

25
26 INTERROGATORY NO. 7: For each structure identified in the preceding interrogatory,
please state with particularity which Dam Safety performance standards (in Ch. 173-175 WAC)
you contend apply and do not apply to each structure.

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 17

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1 ANSWER:

2 See General Objections Nos. 1, 3 and 4. Without waiving these objections, the Port
3 notes that, under WAC 173-175-020(1), dam safety permits are required for structures that
4 impound 10 acre feet of water above the normal ground level "on either an intermittent or
5 permanent basis" with certain exceptions. For those structures that do not have a berm that
6 exceeds 6 feet in height, those facilities may be excluded by Ecology from compliance with
7 dam safety regulations, on a case-by-case basis. WAC 173-175-020(2). The Port believes
8 that Ecology will apply all applicable regulations to the structures that are ultimately
9 covered by those regulations.

10 INTERROGATORY NO. 8: For all work described in the October 25, 2000, JARPA
11 submitted for the Third Runway and related projects (as amended), identify each activity or
12 project you contend is a "Port 404 project" as that phrase is used in the 401 Certification (see, e.g.,
13 Condition E, page 33).

14 ANSWER:

15 See General Objections Nos. 2, 3 and 4. The Port also objects to this interrogatory on
16 the basis of relevance. The projects to which Condition E applies are to be determined by
17 Ecology, not the Port. Accordingly, the Port's views on the term, if any, are not relevant.

18 Without waiving those objections, the Port notes that the October 25, 2000 JARPA
19 application describes the projects for which a §404 permit was necessary, i.e., projects that
20 would require discharge of fill material into waters of the U.S. This includes, e.g., the third
21 runway, runway safety areas and the South Aviation Support Area. As used in the 401
22 Certification's Condition E, the term "404 Project" is broader than the projects for which a
23 §404 permit is required.

24 The Corps' public interest review of the projects described in the October 25, 2000
25 JARPA may extend beyond the scope of the specific projects described in that application
26 and for which a §404 permit is required. Similarly, Ecology's review under 33 U.S.C. §1341
may extend beyond the specific projects described in that application and for which a §404
permit is required. In fact, both the Corps and Ecology have reviewed projects and imposed
conditions that go beyond the scope of the Port's proposed projects requiring discharge of
fill material into the waters of the United States.

INTERROGATORY NO. 9: For all work described in the October 25, 2000, JARPA
submitted for the Third Runway and related projects (as amended), identify each activity or

1 project you contend is not a "Port 404 project" as that phrase is used in the 401 Certification (see,
2 e.g., Condition E, page 14).

3 ANSWER:

4 See response to Interrogatory No. 8.

5
6
7 INTERROGATORY NO. 10: Describe in detail the difference between the scope of the
8 phrase "Port 404 project" as used in the amended 401 Certification (see, e.g., Certification E,
9 page 14) and the scope of the phrase "Port's Master Plan Update Improvements" as used in the
10 August 10, 2001, 401 certification (see, e.g., Condition E, page 14).

11 ANSWER:

12 See response to Interrogatory No. 8. There is not a significant difference between the
13 two terms. The amended §401 Certification merely includes more examples in an effort to
14 provide greater clarity.

15
16 INTERROGATORY NO. 11: Is it your contention that there are activities or projects
17 described in the October 25, 2000, JARPA submitted for the Third Runway and related projects
18 (as amended), for which you need not seek certification pursuant to § 401 of the Clean Water Act
19 (33 U.S.C. § 1341)?

20 ANSWER:

21 See response to Interrogatory No. 8.

1 INTERROGATORY NO. 12: If the answer to the preceding interrogatory is not an
2 unqualified no, state with particularity which activities or projects you contend do not require
3 certification pursuant to § 401 of the Clean Water Act (33 U.S.C. § 1341).

4 ANSWER:

5 See response to Interrogatory No. 8.

6
7
8 REQUEST FOR PRODUCTION NO. 4: Please produce all documents within your
9 control supporting or otherwise pertaining to facts stated in your answer to the preceding
10 interrogatory.

11 RESPONSE:

12 Without waiving any General Objections, ACC has a copy of the Port's October 25,
13 2000 JARPA application, has copies of the reports submitted by the Port and its consultants
14 with respect to the Corps' and Ecology's review of those projects, and has access to the
15 Corps' and Ecology's files with respect to those agency's review of those projects. As ACC
16 noted in its response to the Port's First Set of Interrogatories and Requests for Production,
17 ACC has already obtained records from Ecology, including records indicating the ongoing
18 exchange of materials between the Port and Ecology. With respect to documents in the
19 Corps' record, the Port is aware of ACC's ongoing exchange of materials with the Corps.
20 Accordingly, the Port responds to this request in the same manner as ACC responded to the
21 Port's Request for Production No. 6: the documents requested "are obtainable from some
22 other source (the identified governmental agencies) that is more convenient, less
23 burdensome, or less expensive." CR 26(b)(1). To the extent this request for production
24 seeks public record obtained from Ecology [or the Corps] under the public record act,
25 [ACC] may obtain them directly from Ecology [or the Corps]."

26 In addition, the Port notes that negotiations are ongoing between ACC and the Port
on a stipulation regarding document discovery. The Port will comply with any stipulation
ultimately agreed to by the parties and produce documents in accordance with that
stipulation.

1 INTERROGATORY NO. 13: Is it your contention that there are activities or projects
2 related to the Third Runway Project (beyond those included in your answer to Interrogatory
3 No. 12), for which you need not seek certification pursuant to § 401 of the Clean Water Act
4 (33 U.S.C. § 1341)?

5 ANSWER:

6 See answer to Interrogatory No. 8. See General Objection Nos. 3, 5, 6 and 8. The
7 Port objects to this interrogatory specifically on the grounds that the range of "activities or
8 projects related to the Third Runway Project" is so large as to make response to this
9 interrogatory unduly burdensome and cumulative. "Related" projects would include
10 planning for terminal improvements, navigation improvements or other projects associated
11 with the Port's Master Plan Update that have no direct connection with any requirement to
12 discharge fill material into waters of the United States. In addition, the Corps' review of
13 cumulative impacts of projects surrounding the Airport encompasses numerous projects
14 that are being proposed or undertaken by third-party project proponents completely
15 unrelated to the Port. While all of those projects might be reviewed by the Corps or
16 considered by Ecology pursuant to the Corps' public interest review or under 33 U.S.C.
17 §1341(d), they do not require discharge of fill material into the waters of the United States
18 and therefore may proceed in the absence of a certification under 33 U.S.C. §1341.

19 INTERROGATORY NO. 14: If the answer to the preceding interrogatory is not an
20 unqualified no, state with particularity which activities or projects you contend do not require
21 certification pursuant to § 401 of the Clean Water Act (33 U.S.C. § 1341).

22 ANSWER:

23 See response to Interrogatory No. 13.

24 REQUEST FOR PRODUCTION NO. 5: Please produce all documents within your
25 control supporting or otherwise pertaining to facts stated in your answer to the preceding
26 interrogatory.

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 21

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1 **RESPONSE:**

2 **See response to Request for Production No. 4.**

3
4 **INTERROGATORY NO. 15:** For each activity or project identified in your answers to
5 Interrogatory Nos. 12 and 14, identify each activity or project undertaken or commenced prior to
6 August 10, 2001, and each activity or project commenced since August 10, 2001.

7 **ANSWER:**

8 **See response to Interrogatory No. 13.**

9
10
11 **INTERROGATORY NO. 16:** Identify all conditions or mitigation proposed for the Third
12 Runway Project which you contend will not apply or may not be enforced over the operational life
13 of the third runway project.

14 **ANSWER:**

15 **See General Objections Nos. 3, 5, 6 and 8. The Port specifically objects to this**
16 **interrogatory on the grounds that it is vague as written and, as a result of that vagueness,**
17 **unduly burdensome and cumulative. The terms "all conditions or mitigation proposed"**
18 **does not specify the person or body that has proposed the conditions or mitigation and many**
19 **different conditions and mitigation have been proposed by many different persons or**
20 **organizations for the Third Runway Project.**

21 **Consistent with General Objection 8, and without waiving its prior objections, the**
22 **Port will assume that this Interrogatory has reference to conditions or mitigation proposed**
23 **by Ecology in the 401 Certification and respond to the interrogatory accordingly. Using that**
24 **assumption, the conditions and mitigation that are applicable to the projects are specified in**
25 **the 401 Certification, and the Port intends to comply with those conditions.**

26 **As to enforcement of those conditions or mitigation, the Port objects to this portion of**
27 **the interrogatory on the grounds that it seeks information that it is not within the Port's**
28 **custody or control and on the grounds that it would require speculation. While the Port**
29 **intends to comply with the conditions in the 401 Certification, enforcement of those**
30 **conditions rests with Ecology and the Corps, to the extent that the Corps issues a §404**

1 permit that adopts and incorporates the conditions in the 401 Certification. The Port
2 cannot respond as to which conditions may be enforced by third-parties.

3
4 INTERROGATORY NO. 17: Describe in detail the contents of any meeting or committee
5 action in which Joan Marchioro, Port Counsel Jay Manning and Tanya Barnett, Megan White,
6 Dan Swenson, Steve Hirschey and Bob Barwin (or others) participated, addressing in whole or in
7 part the need or potential use of a water right for implementation of flow mitigation for the Third
8 Runway Project, which took place on March 22, 2001.

9 ANSWER:

10 On or about March 22, 2001 and April 2, 2001, representatives of the Port of Seattle,
11 including Port attorneys Jay Manning and Tanya Barnett, discussed with representatives of
12 Ecology whether a water right would be needed in order to implement the Port's proposal to
13 mitigate summer low streamflow impacts. The Ecology representatives agreed with the Port
14 representatives that a water right was not necessary because the management of stormwater
15 proposed by the Port was directly related to the low streamflow impacts actually created by
16 the project itself. As a result, the summer low streamflow offset proposal was no different
17 than other stormwater management routinely required by Ecology, including mitigation for
18 peak flow impacts, such as impoundment and release, and mitigation for low flow impacts,
19 such as impoundment and infiltration.

20 INTERROGATORY NO. 18: Describe in detail the contents of any meeting or
21 communication in which Joan Marchioro, Tom Fitzsimmons and/or Port Counsel Jay Manning (or
22 others) participated, addressing in whole or in part the need or potential use of a water right for
23 implementation of flow mitigation for the Third Runway Project, which took place on April 2,
24 2001.

25 ANSWER:

26 See response to Interrogatory No. 17.

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 23

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INTERROGATORY NO. 19: Identify each communication between the Port and Tom Fitzsimmons subsequent to April 2, 2001, addressing in whole or in part the need or potential use of a water right for implementation of flow mitigation for the Third Runway Project.

ANSWER:

See response to Interrogatory No. 17.

REQUEST FOR PRODUCTION NO. 6: Please produce all documents within your control supporting or otherwise pertaining to facts stated in your answers to the three preceding interrogatories.

RESPONSE:

Negotiations are ongoing between the Port and ACC on a stipulation regarding document discovery. Upon completion of those negotiations, responsive documents, if any, will be produced in accordance with that stipulation.

Interrogatories and Requests for Production dated this 26th day of November, 2001.

HELSELL FETTERMAN LLP

By: _____
Peter J. Eglick, WSBA No. 8809
Michael P. Witek, WSBA No. 26598
Attorneys for Appellant Airport Communities Coalition

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SIGNED on behalf of Port of Seattle

By: _____
Signature

Printed Name

STATE OF WASHINGTON)
COUNTY OF _____) ss.

_____, being first duly sworn, on oath deposes and
says:

That _____ is the _____ for the
Respondent named herein, has read the interrogatories and requests for production contained
herein and the answers and responses thereto; believes the answers and responses to be true and
correct; and has not interposed any answers or objections for any improper purpose, such as to
harass or to cause unnecessary delay or needless increase in the cost of litigation.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2001.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STEVEN G. JONES, attorney for Port of Seattle, certifies that (s)he has read the
answers, responses and objections (if any) to the foregoing interrogatories and requests and, to the
best of her/his knowledge, information, and belief formed after a reasonable inquiry they are
(1) consistent with these rules and warranted by existing law or a good faith argument for the
extension, modification, or reversal of existing law; (2) not interposed for any improper purpose,
such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and
(3) not unreasonably or unduly burdensome or expensive, given the needs of the case, the
discovery already had in the case, the amount in controversy, and the importance of the issues at
stake in the litigation.

By: Steven G. Jones
Attorney for Port of Seattle (WSBA No. 9334)

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 25

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 26th day of November, 2001, served ACC's Interrogatories Nos. 1-19 and Requests for Production Nos. 1-6 to Port of Seattle, on the following persons, by legal messenger:

Jay J. Manning
Gillis E. Reavis
Marten & Brown LLP
1191 Second Avenue, Suite 2200
Seattle, WA 98101

Roger Pearce
Steven Jones
Foster Pepper & Shefelman
1111 Third Avenue, Suite 3400
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Linda J. Strout, General Counsel
Traci M. Goodwin, Senior Port Counsel
Port of Seattle, Legal Dept.
Pier 69
2711 Alaskan Way
Seattle, WA 98121

Andrea Grad

ACC'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION NOS. 1-6 TO PORT OF SEATTLE AND
PORT'S OBJECTIONS AND RESPONSES - 26

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