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March 30, 2001

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Sent via Fax and Email

Mr. Tom Fitzsimmons
Director
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Ecology's 1999 Agreed Order with the Port of Seattle and the 401
Certification Process

Dear Director Fitzsimmons:

On behalf of the Airport Communities Coalition, thank you for taking the time on Tuesday evening, March 27, 2001, to meet with me, Dr. Peter Willing, Representatives Shay Schual-Berke and Karen Keiser and Senator Dow Constantine. I also appreciate your willingness to bring to the meeting Jim Pendowski, Steve Alexander, Ray Hellwig, Ann Kenny, Kevin Fitzpatrick and Assistant Attorney General Joan Marchioro. The legislators and I were disappointed, however, that Ecology technical staff John Wietfeld and Ching-Pi Wang were not allowed to attend the meeting. As we all ultimately agreed at the meeting, their presence would have been very helpful in furtherance of the discussion on the implications of the Agreed Order for the 401 certification process.

I am writing to confirm the agreement we reached at the meeting that Ecology will participate in another meeting to discuss Agreed Order/401 issues and that Ecology technical staff John Wietfeld, Ching-Pi Wang and Roger Nye will be present at the meeting along with Jim Pendowski, Steve Alexander, Ray Hellwig and Ann Kenny. Gordon White's presence is also critical because we have been told by Ecology that he is responsible for and will be signing Ecology's 401 decision. In addition, several of the same legislators who arranged the initial meeting with you and Ecology staff will also attend this technical meeting including Sen. Julia Patterson, Rep. Shay Schual-Berke and Rep. Karen Keiser. While I encourage your personal participation in this second meeting, I appreciate the many demands on your time. As we agreed, I will shortly be contacting Ray Hellwig to arrange for a mutually convenient time for everyone to meet in Bellevue, Olympia or in the legislators' home districts.

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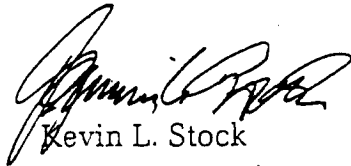
I also am writing to confirm that you assured the legislators and me at our meeting that Ecology would take a fresh look at the issue of whether the Port must fulfill the requirements of the Agreed Order before Ecology can issue any decision on the Port's 401 application. In that regard, we look forward to Ecology's written response to our March 9 letter and the legislators' March 19 letter on the subject.

As I explained repeatedly at our meeting, very strong scientific and legal reasons exist which preclude Ecology from issuing a legally defensible 401 certification before the Port completes its obligations under the Agreed Order. ACC believes that Ecology has gotten off track with respect to enforcement of the Agreed Order and its implications for the 401-certification process. Our meeting with you last Tuesday and the upcoming meeting at which Ecology technical staff will be present will help Ecology renew its commitment to the Agreed Order and the public participation process required by the Agreed Order and help Ecology better understand that the Agreed Order is a condition precedent to issuance of a 401 decision.

Again, thank you and your staff for taking the time to meet with us last Tuesday evening. I look forward to our next meeting.

Very truly yours,

HELSELL FETTERMAN LLP



Kevin L. Stock

cc: Mr. Gordon White
Mr. Jim Pendowski
Mr. Raymond Hellwig
Mr. Steve Alexander
Ms. Ann Kenny (for 401 public record)

Rep. Shay Schual-Berke
Rep. Karen Keiser
Rep. Joe McDermott
Rep. Erik Poulsen
Rep. Mark Miloscia

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Rep. Maryann Mitchell
Sen. Julia Patterson
Sen. Dow Constantine
Sen. Tracey Eide

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