

**Luster, Tom**

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**From:** Patrick, Barb  
**Sent:** Wednesday, September 27, 2000 4:47 PM  
**To:** Fitzsimmons, Thomas; White, Gordon; Luster, Tom; Helwig, Raymond;  
Marchioro, Joan (ATG)  
**Subject:** Dinsmore Letter

Here it is ... good luck!



Dinsmore.doc

Barb Patrick  
Exec. Office  
407-7010  
E-mail ~ bapa461@ecy.wa.gov

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AR 023705

September 28, 2000

Mr. M.R. (Mic) Dinsmore, Executive Director  
Port of Seattle  
Post Office Box 1209  
2711 Alaskan Way (Pier 69)  
Seattle, WA 98111

Dear Mr. Dinsmore:

This letter is submitted pursuant to our ongoing discussions regarding the status of the Department of Ecology (Ecology's) review of the Port of Seattle (Port) application for a Clean Water Act § 401 Water Quality Certification for the Third Runway project. The Port's runway project proposals are substantial and complicated. Unfortunately, there is not adequate time to properly review and assess all of the remaining and important project related issues prior to the end of the current § 401 Certification decision making timeframe. We appreciate the efforts Port staff and consultants have made to provide necessary information for agency review. However, there simply is not enough time to arrive at a legally defensible decision that protects Ecology's interests.

Ecology is committed to providing a thorough and fair review of Port proposals. It is our responsibility to ensure compliance with pertinent environmental laws and regulations. Consistent with this responsibility, our environmental objectives for the Port's runway and related projects have remained unchanged. We will only approve the Port's project if we have reasonable assurance that the natural resource and stormwater management plans prevent further degradation to water quality and aquatic resources in the sub-basins surrounding SeaTac International Airport.

While Ecology's review cannot be completed within the present § 401 Certification timeframe, Ecology staff believes that the Port's project may be permitted provided the Port submits adequate natural resource management and stormwater management plans. We anticipate that the Port will be able to adequately address remaining issues. In light of this perspective, we believe that is possible to issue a § 401 Certification consistent with the following:

1. As an initial matter, Ecology agrees that it will meet with the Port to identify very specifically the remaining issues and requirements necessary for approval of a subsequent § 401 Certification after: (a) the Port's withdrawal of its current application for a § 401 Certification and § 404 Permit is properly executed; (b) the Port reapplies for the § 401 Certification and § 404 Permit; and (c) the necessary public comment period is completed.

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Some project mitigation and plan elements proposed by the Port are nearly adequate now and may require only minor adjustments, while other elements require imposition of 401 conditions by Ecology, and/or significant submittal of information to Ecology by the Port.

2. Given the current information submitted by the Port, Ecology believes that it is possible, in the near term, to craft appropriate conditions with respect to flow augmentation for Des Moines Creek, protection of Tyee Pond, excavation of Borrow Site #3 and acquisition of necessary Hydraulic Project Approvals from the Department of Fish and Wildlife.
3. The King County review of the revised Stormwater Management Plan (SMP) identified several deficiencies in the plan that Ecology believes need to be addressed. The corrections that need to be made include, but are not limited to, the provision of a consistent level of flow control to the receiving waters of Miller, Walker and Des Moines Creeks that will be sufficient to prevent continued or future degradation of these streams resulting from the Port's stormwater impacts. The revised SMP will need to address errors, inconsistencies and omissions which were brought to light in the county's review. The revised SMP will also need to ensure and demonstrate that it is consistent with the mitigation requirements of the Port's most recent Natural Resources Mitigation Plan (NRMP) and that all revisions to the SMP will not result in any additional adverse impacts to wetlands and the wetlands' hydrology which are not presently mitigated for in the NRMP.

Once the Port has reapplied for a § 401 Certification and submitted to Ecology necessary information related to the issues and requirements to be specified by Ecology in a subsequent meeting, Ecology commits to complete its review and make a decision on the § 401 Certification within 75 days. If during Ecology's review, it is determined that additional information or analysis is required from the Port, the review clock will pause until the Port provided Ecology with additional information or analysis sufficient for review to continue.

I appreciate your attention to and consideration of the above offer and I look forward to working through relevant issues with you and your staff. If you have any questions regarding the above, please feel free to contact me at 360-407-7001 or Ray Hellwig at 425-649-7010.

Sincerely,

Tom Fitzsimmons  
Director

AR 023707

Washington State  
Department of Ecology  
Shorelands and Environmental Assistance Program  
Post Office Box 47600  
Olympia, WA 98504-7600  
Phone (360) 407-6600  
Fax (360) 407-6902

# Fax

To: Ann Kenney From: Yvonne Oliva  
At: NWRD Phone: (360) 407-6499  
Fax: \_\_\_\_\_ Email: YOLIVA461@ecy.wa.gov  
Date: 12/6/00 CC: \_\_\_\_\_

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