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**BEFORE THE POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON**

AIRPORT COMMUNITIES  
COALITION,  
  
Appellant,  
  
v.  
  
STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY; and  
PORT OF SEATTLE,  
  
Respondents.

PCHB No. 01-133  
  
DECLARATION OF ANN KENNY

Ann Kenny, declares as follows:

1. I am over the age of 18, am competent to testify, and have personal knowledge of the facts stated herein.
2. I am an Environmental Specialist 4 employed by the Department of Ecology (Ecology) in the Northwest Regional Office (NWRO) Shorelands and Environmental Assistance Program's Permit Assistance Center. I have been employed by Ecology since 1990 and have held that position since August 1999. My duties include providing regulatory and technical assistance on large complex projects. I worked from February 1998 to July 1999 as the Northwest Regional Office's Federal Permit Coordinator reviewing projects requiring certification under § 401 of the Clean Water Act (401 Certification). Even after taking the Permit Assistance Center position, I continued to review and issue 401 Certifications. Over the

1 and an increase in impervious surface area in the Walker, Miller and Des Moines Creek basins.  
2 In requiring a Low Flow Mitigation Plan, Ecology intended that the Port offset the impacts to  
3 the streams by mimicking, to the extent practicable, the pre-project hydrologic curve. In order  
4 to clearly identify the issues the low flow mitigation plan needed to address, Ecology and the  
5 Port engaged in a facilitated process similar to that of the CSMP for low flow. In that process,  
6 Ecology identified the impacts and approved a conceptual plan to mitigate for those impacts.

7 32. The primary concerns expressed by the ACC regarding low flow mitigation are  
8 that the Port's Low Flow Offset Mitigation Plan lacks sufficient detail and is untested. Mr.  
9 Whiting, in his review of the plan, included in his comments specific recommendations to  
10 address these issues. Whiting Dec., Exhibit 2. In drafting the 401 Certification, I included Mr.  
11 Whiting's recommendations as conditions. For example, Condition I(a) of the 401  
12 Certification requires the Port to submit a more detailed plan that includes conceptual design  
13 drawings for the stormwater vaults, a final operations and maintenance plan, a monitoring  
14 protocol, and contingency measures to address potential shortages in the vaults. The 401  
15 Certification also requires the Port to develop a pilot program to test one stormwater vault for  
16 performance before implementing the plan. This "bench scale" testing of the system was  
17 included in response to comments from the ACC. The ACC's contention that the Port has  
18 already exhausted contingency measures for obtaining additional water, if needed, to offset low  
19 flows in the project streams is incorrect. The Port's contingency plan could involve the  
20 purchase of water, for example, for use as mitigation.

21 33. Although some precise details regarding the mechanics of delivering the water  
22 to the streams had not been provided, Ecology was reasonably assured that the impacts had  
23 been appropriately identified and that the proposed mitigation was technically feasible. As  
24 described above, consistent with prior 401 Certifications, Condition I requires the Port to  
25 submit to Ecology within 45 days of receipt of the 401 Certification a final plan containing the  
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