

**Kenny, Ann**

**From:** LaVassar, Jerald  
**Sent:** Monday, February 26, 2001 9:29 AM  
**To:** Kenny, Ann  
**Subject:** RE: Response to your e-mails of February 1 and February 5, 2001

Dear Ms. Kenny:

As I stated in my voice mail, I am confused as to how the MSE wall can be construed to be a dam. I remember no pool situated immediately behind the MSE wall. At most there is a drainage ditch paralleling the wall that is designed to conduct any runoff from the runway areas to the distant storm water management facilities. As I mentioned in our phone call last week, if one allowed water to build up behind the wall, the lateral loads on the wall system would roughly double. In fact, one of the design criteria for selecting the wall backfill immediately behind the facing panels is to assure these select soils are free draining to preclude the backfill from ever becoming saturated!

The following language is included in WAC 173-175-020 as to the what constitutes a dam under our purview. Specifically, *"These regulations are applicable to dams which can impound 10 acre-feet or more of waster as measured at the dam crest elevation. The 10 acre-feet threshold applies to dam which can impound water on either an intermittent or permanent basis. Only water that can be stored above natural ground level and which could be released by a failure of the dam is considered in assessing the storage volume.*

*The 10 acre-feet threshold applies to any dam which can impound water of any quality, or which contains any substance in combination with sufficient water to exist in a liquid or slurry state at the time of initial continent."* The MSE wall backfill will be placed as an engineered fill with only sufficient water to facilitate achieving the specified minimum soil density. Over the life of the facility the soils will remain drained and thus unsaturated. Thus, at no time will they will be *"in a liquid or slurry state"*.

To radically change our historical interpretation of our RCW and WAC so as to include projects of this nature as dams (as it appears this group is suggesting) would be inconsistent with the intent of our governing legislation in my opinion.

The email also mentioned some additional proposed storm water ponds associated with the project that could fall under our purview. Last week, I received a call from an individual with a firm involved with the permitting of the facility. That gentleman requested clarification on the size of an impoundment that would place it under our purview. I walked him through the WAC. I was not given any specifics on the number or actual storage size of the proposed ponds other than they involved embankments of only a few feet in height. So we have nothing in hand to review for any ponds other than the already reviewed and approved expansion of Lagoon #3.

If you have any further questions, please note I am scheduled to be out all next week (2/18-23) and Tuesday (2/27) of the following week. In my stead, Doug Johnson should be able to answer any questions.

Regards,

Jerald LaVassar  
(360) 407-6625

-----Original Message-----

**From:** Grad, Andrea E. [mailto:agrad@helsell.com]  
**Sent:** Thursday, February 15, 2001 12:20 PM  
**To:** Kenny, Ann  
**Cc:** Marchioro, Joan (ATG); Hellwig, Raymond; LaVassar, Jerald; Johnson, Doug; Fitzpatrick, Kevin  
**Subject:** RE: Response to your e-mails of February 1 and February 5, 2001

Dear Ms. Kenny:

**AR 031718**

ECY00011668

2/26/01

Exhibit-2061

Thank you for your response (below). ACC will be responding to issues it raises in our comments on the Port's application which we will be submitting to Ecology and the Corps later this week. Meanwhile, we wish to request the documents described below, pursuant to the Public Disclosure Act.

With regard to the statement that "Ecology's Dam Safety Office has determined that the MSE wall does not require a Dam Safety permit," please produce pursuant to the PDA all documents (including but not limited to emails, correspondence, plans, drawings, environmental analyses, meeting notes, telephone notes, and all other documentation) relied upon by Ecology in making the determination that the wall does not require dam safety review, as well as all documents reflecting Ecology's decision not to require it.

Thank you,  
Andrea Grad

-----Original Message-----

From: Kenny, Ann [mailto:AKEN461@ECY.WA.GOV]

Sent: Thursday, February 08, 2001 11:41 AM

To: 'Andrea Grad'

Cc: Marchioro, Joan (ATG); Hellwig, Raymond; LaVassar, Jerald; Johnson, Doug; Fitzpatrick, Kevin

Subject: Response to your e-mails of February 1 and February 5, 2001

Dear Mr. Eglick, Mr. Stock and Ms. Grad:

The purpose of this e-mail is to provide you with a response to several recent e-mail PDA requests, each of which is identified below.

1. E-mails of February 1 and February 5, 2001 Andrea Grad regarding a PDA request for documents reviewed per Chapter 173-175 WAC (Dam Safety issues):

As you stated in your e-mail of February 5, 2001, you will be receiving information from Mr. Jerald LaVassar of Ecology's Dam Safety Office regarding ISW Lagoon #3. This is the only facility that has been reviewed by Ecology under Chapter 173-175 WAC. Based on our review of the Port of Seattle's project, to date, it appears that there are only two proposed stormwater facilities that may require review under Chapter 173-175 WAC. These are the 25.5 acre-foot pond associated with SDW1A and the 37.91 acre-foot pond associated with SDW1B. Ecology's Dam Safety Office has determined that the MSE wall will not require a Dam Safety permit.

Ecology will recommend to the Port of Seattle that they begin consultation with the Dam Safety Office concerning the design of the two proposed stormwater facilities identified above to determine if they fall under the provisions of Chapter 173-175 WAC.

Stormwater impacts related to construction of these facilities would be covered under the Port's NPDES permit.

2/26/01

ECY00011669

AR 031719

The 401 permit, if one is issued, would require the Port to obtain the necessary Dam Safety permits, if required, prior to commencement of construction of the stormwater ponds.

2. E-mail of February 5, 2001 sent by Andrea Grad and signed by Peter Eglick and Kevin Stock where you request clarification on Ecology's role in reviewing the MSE wall:

As stated above, Ecology's Dam Safety Office has determined that the MSE wall does not require a Dam Safety permit. Therefore, Ecology has no direct regulatory authority over the design of the MSE wall for purposes of structural integrity. The attached document indicates that Ecology has reviewed conceptual drawings of the wall and has reviewed the design process for the wall. Given that review, Ecology believes that the Port is using a credible process for designing the wall. In the 401 process, Ecology will review the general design and footprint of the wall to determine impacts to water quality, baseflow and wetlands and address any concerns in the 401 water quality certification.

If Ecology determines that the information it has on file regarding the MSE wall is not sufficient, Ecology will ask the Port to submit additional information.

If you have further questions regarding these matters please call or write.

Ann E. Kenny, Senior Environmental Specialist  
Department of Ecology  
3190 160th Ave. SE  
Bellevue, WA 98008-5452  
Phone: 425-649-4310  
Fax: 425-649-7098

ECY00011670

2/26/01

**AR 031720**