



April 30, 2004
Vol.11, No.3

Runway Opponents Discover Port Plan To Haul Contaminated Fill to Runway Project

Plans of the Port of Seattle to bring contaminated fill to the third-runway embankment site may result in a major delay in resuming work on the project. [...more](#)

Sea-Tac's New Water-Pollution Permit Plainly Unlawful, Citizens' Groups Tell Pollution Control Hearings Board

Two citizens' groups have told the Pollution Control Hearings Board that the recently-issued water-pollution permit for Sea-Tac Airport is plainly illegal. They have asked the Board to make a finding to that effect as a matter of law, before the hearing scheduled for mid-July. [...more](#)

Temporary Closure of McChord AFB May Send Additional Flights to Boeing Field

McChord Air Force Base plans to shut down its flight operations for the month of August to allow construction crews to complete repairs to the 10,100 runway, according to a news article in the News Tribune on April 15. An Air Force spokesman said that all "commercial aircraft will be redirected to Boeing Field for the duration of the project". [...more](#)

Sea-Tac's North Terminal Project Shelved; Light-Rail Extension to Airport Garage Planned

Sea-Tac Airport planners have abandoned the proposed \$3 billion North Terminal project. Airport spokesman Bob Parker told *Truth in Aviation*, "You can quote me as saying that the north terminal is gone." [...more](#)

U.S. DOT Orders Demand Management At O'Hare To Reduce Delays

On April 21, U.S. Transportation Secretary Norman Y. Mineta announced new reductions in United and



Sea-Tac Airport August 2003 from the north
The runway to the west is the new taxiway.
Mounds of earth to the west of the taxiway are third-runway fill.

American Airlines flight schedules aimed at further reducing congestion and passenger inconvenience at Chicago's O'Hare International Airport. [...more](#)

Wescot Loses In Appellate Court

Court of Appeals Division I has denied the appeal of Wescot Corporation & Environmental Materials Transport in in Wescot v. City of Des Moines. Wescot proposes to construct a 4.8 mile temporary conveyor system to deliver fill material to Sea-Tac Airport during construction of the third runway. The conveyor system would traverse City park land & would require City permits. The City of Des Moines had denied the permit application because it was not from the property owner, namely, the City of Des Moines. [...more](#)

Truth in Aviation Available by Email

You can now subscribe to have this newsletter conveniently delivered directly by email. Just click [here](#), and then choose send.

[Back issues of Truth in Aviation](#)

Visit our homepage at rcaanews.org... Don't forget to check our [What's the Latest Page](#) for updates between newsletters.

Runway Opponents Discover Port Plan to Haul Contaminated Fill to Runway Project

Plans of the Port of Seattle to bring contaminated fill to the third-runway embankment site may result in a major delay in resuming work on the project.

In defiance of a clear ruling from the Pollution Control Hearings Board (PCHB), the Port and the Department of Ecology have decided that fill materials may be accepted for use in the embankment if they are "passed" by a testing procedure that is known *not* to detect certain contaminants at forbidden levels. The two agencies are challenging the Board's ruling before the Supreme Court. They seem to believe that the Supreme Court will overturn the ruling of the PCHB, & so they are proceeding as if the Court had already ruled in their favor.

On April 2, Airport Communities Coalition (ACC) filed an emergency motion with the Supreme Court, asking for an order forbidding the Port and the Department from taking any action involving filling of wetlands, stream alterations, or construction at the runway site, until the Court has ruled on the pending appeal of the PCHB's ruling.

Ecology Gives Secret Approval to Contaminated Fill

According to the ACC's filing, the Port intended to begin moving fill in April, under a plan approved by Ecology for testing fill materials. Without public notice or knowledge, Ecology made a deal with the Port, approving the Port's use of a test (called the SPLP) to "qualify" contaminated fill as being "clean". This use of the SPLP test was specifically prohibited by the Pollution Controls Hearing Board (PCHB) in its ruling on the Port's water-quality permits. The test is one of the subjects of an appeal by the Port of the PCHB order to the State Supreme Court. (ACC & C.A.S.E. have filed a cross-appeal.) Arguments in the case were heard on November 18, 2003, but a ruling has not been received from the Court.

Copies of the ACC's emergency motion and supporting affidavits are posted in our library, and can be found at the links above.

The Port of Seattle has responded to the motion with its own paperwork, rebutted by additional ACC filings.

On April 20, the lawyers for ACC, CASE, the Port of Seattle, and the Department of Ecology presented oral argument (through a multi-party conference call) to the Commissioner of the Supreme Court (Hon. Geoffrey Crooks) on the ACC-CASE motion.

▶ ORIGINAL DOCUMENTS

ACC Motion and supporting affidavits

- [-Emergency Motion for Injunctive Relief of ACC Affidavit in Support of Motion-- Peter J. Eglick](#)
- [-Affidavit in Support of Motion-- Dyanne Sheldon](#)

Port Response and supporting affidavits

- [-Response of Port of Seattle Affidavit in Support of Response-- Michael Feldman](#)
- [-Affidavit in Support of Response-- Robin V. Kordik](#) (This document has an extensive attachments, not reproduced here for technical reasons)
- [-Affidavit in Support of Response-- Gillis E. Reavis](#)
- [-Affidavit in Support of Response-- John Rothnie](#)

ACC Reply

- [-Reply Declaration in Support of Reply-Peter J. Eglick](#)
- [-Affidavit in Support of Reply- Dr. Stephen Hockaday](#)

▶ BACKGROUND

[Oct. 03 TIA Article About the Supreme Court Appeal & Cross Appeals](#)

[March 04 TIA Article About Low Bid for Runway Work](#)

Mr Commissioner Crooks ordered further briefing to be submitted by Friday, April 30, on a legal point that arose during the argument.

Port Promises Court: No Runway Fill Movement till June

The Port, through outside counsel Mr Gillis Reavis (of the downtown law firm Brown Reavis & Manning PLLC), orally represented to Mr Commissioner Crooks that (for unstated reasons) the Port would not be doing any work at all until June 1, at the earliest. On that assurance, the Commissioner said that there would be no immediate ruling, but that either he or the full Court would issue a ruling by June 1.

The result is that there is an *understanding* & an *undertaking* that there will be no relevant construction activity, including fill hauling, till June 1, at the earliest. This is not binding in the way that a restraining order or injunction would be, but if the Port were able to get its act together & start fill-hauling before June 1, there would be extremely serious consequences for Mr Reavis & his firm.

Those participating in the oral argument on the 20 th included Peter Eglick (lead counsel for ACC), Rick Poulin for C.A.S.E., Rachel Osborn (Spokane) also for ACC, Karen Marchioro, Assistant Attorney General, for the Department of Ecology, and Gillis Reavis, for the Port.

If the Court agrees with the ACC, then the Port & Ecology will have to devise a new plan for screening & testing embankment fill before any materials can be brought in. This will have to be done in consultation with the apparent low bidder for Year 2004-5 runway work, TTI Constructors LLC, whose bid came in at \$192.6 million.

The Port has said for many months that it has all the permits it needs to resume runway work, but the Port never said that it was planning to proceed in violation of the terms of any of the permits.

[Back to Page 1 of Newsletter](#)

[Home](#) | [What's the Latest?](#) | [Links](#) | [Library](#) | [Newsletter](#) | [About Us](#)



Sea-Tac's New Water-Pollution Permit Plainly Unlawful, Citizens' Groups Tell Pollution Control Hearings Board

► ORIGINAL DOCUMENTS [Citizens' Groups' Motion for Summary Judgement](#)

Two citizens' groups have told the Pollution Control Hearings Board that the recently-issued water-pollution permit for Sea-Tac Airport is plainly illegal. They have asked the Board to make a finding to that effect as a matter of law, before the hearing scheduled for mid-July.

In a joint motion for partial summary judgement filed on April 26, Citizens Against Sea-Tac Expansion (C.A.S.E.) & Puget Soundkeeper Alliance say that the permit is invalid because it allows discharge of polluted water from the Airport into Puget Sound without requiring pre-discharge treatment by all known, available, and reasonable methods of preventing, controlling, and treating pollution ("AKART"). State law requires that all discharges into surface waters must be subject to AKART.

The permit, issued by the Department of Ecology in September 2003, allows the Airport to discharge water contaminated with more than 100,000 gallons of de-icing materials each year, without going through secondary treatment. De-icing materials, largely composed of glycols, are notoriously harmful to water-dwelling organisms. Primary treatment does not remove glycols, though it removes many other contaminants.

The two groups point out that the Port itself recommended secondary treatment of these discharges, rather than sending them untreated into the Sound. According to testimony developed during pre-hearing discovery, King County has plenty of capacity in its treatment works to provide secondary treatment to these discharges. Ecology has already ruled that the Airport must construct a pipeline for its discharges to a near-by King County treatment works.

The permit was issued under the provisions of sec. 402 of the federal Clean Water Act, & is sometimes referred to as a "402 permit", or as an "NPDES permit". "NPDES" stands for "National Pollutant Discharge Elimination System".

C.A.S.E. is represented in the appeal by Smith & Lowney (Rick Poulin, counsel). Puget Soundkeeper Alliance is represented by Gendler & Mann, with David S. Mann being the lead attorney.

[Back to Page 1 of Newsletter](#)



Temporary Closure of McChord AFB May Send Additional Flights to Boeing Field

McChord Air Force Base plans to shut down its flight operations for the month of August to allow construction crews to complete repairs to the 10,100 runway, according to a news article in the News Tribune on April 15. An Air Force spokesman said that all “commercial aircraft will be redirected to Boeing Field for the duration of the project”. The “commercial” traffic consists of civilian cargo and passenger jet planes flying under contract with the Department of Defense, supplementing military traffic at the base. During the down period, McChord's military planes are expected to work out of Air Force bases in California and the East Coast.

A spokeswoman for Boeing Field (King County International Airport) said that the airport had been contacted by McChord, but that details of McChord's proposal were unknown, that no decisions or agreements have been finalized.

[Back to Page 1 of Newsletter](#)

[Home](#) | [What's the Latest?](#) | [Links](#) | [Library](#) | [Newsletter](#) | [About Us](#)



Sea-Tac's North Terminal Project Shelved; Light-Rail Extension to Airport Garage Planned

Sea-Tac Airport planners have abandoned the proposed \$3 billion North Terminal project. Airport spokesman Bob Parker told *Truth in Aviation*, "You can quote me as saying that the north terminal is gone."

The North Terminal had been projected as the site of an Airport station on the Regional Transit Authority ("Sound Transit") light-rail line from downtown Seattle. With the terminal out of the picture, planners for the Airport and Sound Transit figure that the light-rail station can be located on the fourth level of the existing parking structure. Passengers will be able walk directly into the main terminal.

This new configuration would allow light rail to run at surface level for most of the last mile to the Airport, which would result in "major cost savings" for Sound Transit, according to Michael Cheyne, the Airport's director of planning.

Target date for completing the main portion of the light-rail line is 2009. Preliminary work is just now underway in Seattle's Rainier Valley. The remaining mile to reach the Airport is penciled in for completion in 2011.

Transit planners estimate that the line would accommodate about passenger 3000 trips per day. (Sea-Tac averages 73,300 passengers per day.) Cost estimates for the extension were not released.

[Back to Page 1 of Newsletter](#)

[Home](#) | [What's the Latest?](#) | [Links](#) | [Library](#) | [Newsletter](#) | [About Us](#)



U.S. DOT Orders Demand Management At O'Hare To Reduce Delays

► ORIGINAL DOCUMENTS

On April 21, U.S. Transportation Secretary Norman Y. Mineta announced new reductions in United and American Airlines flight schedules aimed at further reducing congestion and passenger inconvenience at Chicago's O'Hare International Airport.

[USDOT Press Release
\(link to DOT website\)](#)

Speaking to reporters in a telephone news conference, Secretary Mineta revealed plans by United and American Airlines to reduce their daily schedules by another 2.5 percent starting in early June, the second time the airlines have had to trim schedules to help reduce congestion at O'Hare.

[USDOT Press Release
\(acrobat version\)](#)

Both airlines will reschedule the majority of targeted flights to slower times of the day, but each also has plans to cancel a handful of operations, Secretary Mineta said. A total of 17 United and 12 American flights are affected by the announcement.

The latest round of cuts is meant to head off the approaching summer storm season in the Mid-West, and to deal with an anticipated increase in vacation travel.

A spokesperson for the Regional Commission on Airport Affairs said, "It is noteworthy that the Federal authorities can & will impose demand management at O'Hare to reduce delays, but absolutely rule it out as impractical, & even illegal, here at Sea-Tac Airport. Why is that?"

[Back to Page 1 of Newsletter](#)

[Home](#) | [What's the Latest?](#) | [Links](#) | [Library](#) | [Newsletter](#) | [About Us](#)



Wescot Loses In Appellate Court

► ORIGINAL DOCUMENTS

Court of Appeals Division I has denied the appeal of Wescot Corporation & Environmental Materials Transport in in Wescot v. City of Des Moines. Wescot proposes to construct a 4.8 mile temporary conveyor system to deliver fill material to Sea-Tac Airport during construction of the third runway. The conveyor system would traverse City park land & would require City permits. The City of Des Moines had denied the permit application because it was not from the property owner, namely, the City of Des Moines.

[Court of Appeals
Decision 3/22/04 \(link
to court website\)](#)

[Court of Appeals
Decision 3/22/04
\(acrobat version\)](#)

In denying the appeal, the court said: "The Land Use Petition Act provides that a decision by a local government granting or denying a request for permission to use a public park is not subject to judicial review. We reject appellant Wescot's argument that the statute refers only to minor park usages. When Wescot applied for permits to build a major commercial project on city park property without first obtaining the City's consent for such a use, the City's refusal to process the applications was not reviewable and the trial court properly refused to consider the appeal."

The Court also granted the request of the City of Des Moines for reasonable attorneys' fees and costs on appeal under RCW 4.84.370, because the City has prevailed at all levels.

No petition for review was filed with the Supreme Court within the time allowed, & it would seem that this particular proposal is completely dead. Wescot, & its principal, Hank Hopkins, were deeply involved in providing secret campaign contributions in the Des Moines City Council election in the year 2002.

[Back to Page 1 of Newsletter](#)

[Home](#) | [What's the Latest?](#) | [Links](#) | [Library](#) | [Newsletter](#) | [About Us](#)