

FILED
KING COUNTY, WASHINGTON

JAN 8 1999

SUPERIOR COURT CLERK

BY *Elizabeth M. Jones*
DEPUTY

HONORABLE PETER D. JARVIS
Noting Date: December 18, 1998, at 9:00 AM

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

CITIZENS AGAINST SEATAC EXPANSION,

Petitioner/Plaintiff,

v.

PORT OF SEATTLE,

Respondent.

No. 98-2-23944-1SEA

ORDER DENYING RESPONDENT'S
MOTION TO DISMISS FOR LACK OF
STANDING AND STAYING ACTION

This matter came before the Court on the Respondent Port Of Seattle's Motion To Dismiss For Lack Of Standing and on Respondent Port Of Seattle's Motion For Initial Hearing. The Court read and reviewed the respondent's motions, the Declaration Of Michael Feldman Supporting Respondent Port Of Seattle's Motions For Initial Hearing, the Declaration Of Roger Pearce Supporting Port Of Seattle's Motion To Dismiss For Lack of Standing, the Plaintiff Citizens Against Seatac Expansion's Consolidated Memorandum In Response To Respondent's Motions For Initial Hearing And Motion To Dismiss For Lack Of Standing, the Supplemental Declaration Of Lawrence Corvari Supporting Plaintiff's Consolidated Opposition Brief, the Declaration Of Greg Wingard Supporting Plaintiff's Consolidated Opposition Brief, the Declaration of Richard A. Poulin Supporting Plaintiff's Consolidated Opposition Brief, Respondent Port Of Seattle's Consolidated Reply Memorandum Supporting Motions For Initial Hearing And Motion To Dismiss For Lack Of Standing, and the Declaration Of Barbara Hinkle Supporting Port Of Seattle's Reply Memorandum.

ORDER - 1

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FOSTER PEPPER & SHEFELMAN PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
206-447-4400

ORIGINAL

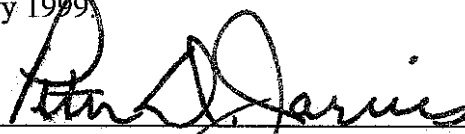
1 The Court finds that the Port's decision challenged in this action -- the Final Determination
2 Of Nonsignificance And Notice Of Decision regarding the creation of replacement wetlands in the
3 City of Auburn -- is interrelated to other decisions occurring at the Seattle-Tacoma International
4 Airport (Airport) regarding the proposed construction of the Port's Master Plan Update development
5 actions. Because the extent of the wetland filling impacts in creek basins near the Airport, and any
6 required mitigation in the creek basins near the Airport to mitigate for impacts caused by wetland
7 filling, is not known at this time, it is incorrect to dismiss this action for lack of an actual injury. It is
8 appropriate, however, to stay all remaining proceedings in this action, including the other pending
9 motions in this action, until the pending agency actions regarding permits for wetland filling at the
10 Airport are complete. Those matters should be complete after the U. S. Army Corps of Engineers
11 makes a final decision on the Port of Seattle's permit application, pursuant to § 404 of the Clean
12 Water Act, to fill wetlands at the Seattle-Tacoma International Airport in order to construct the
13 Master Plan Update development actions, including wetland filling required for the proposed third
14 air carrier runway at the Airport.

15 Accordingly, it is ORDERED, ADJUDGED, and DECREED as follows:

16 Respondent Port Of Seattle's Motion To Dismiss For Lack Of Standing should be, and
17 hereby is, DENIED.

18 All proceedings in this action, including the remaining motions pending before the Court, are
19 stayed until after the U. S. Army Corps of Engineers makes a final decision on the Port of Seattle's
20 permit application, pursuant to § 404 of the Clean Water Act, to fill wetlands at the Seattle-Tacoma
21 International Airport in order to construct the Master Plan Update development actions, including
22 wetland filling required for the proposed third air carrier runway at the Airport.

23 DATED this 8th day of January 1999

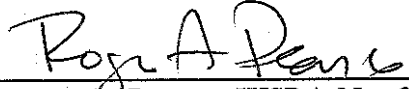
24 
25 The Honorable Peter D. Jarvis
26 Superior Court Judge

ORDER - 2

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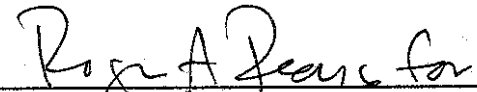
1 Presented by:

2 FOSTER PEPPER & SHEFELMAN PLLC

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5 Roger A. Pearce, WSBA No. 21113
6 J. Tayloe Washburn, WSBA No. 13676

7 PORT OF SEATTLE

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9 Linda J. Strout, General Counsel, WSBA No. 9422
10 Traci M. Goodwin, Port Counsel, WSBA No. 14974

11 Attorneys for respondent Port of Seattle

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ORDER - 3

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