

No. 73419-4
THE SUPREME COURT OF WASHINGTON

PORT OF SEATTLE, a port district of the State of Washington,
Petitioner,

v.

THE POLLUTION CONTROL HEARINGS BOARD, an agency of the
State of Washington,
Respondent,

AIRPORT COMMUNITIES COALITION; and CITIZENS AGAINST
SEA-TAC EXPANSION,
Petitioners,

v.

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, an agency
of the State of Washington,
Petitioner.

**DECLARATION OF PETER J. EGLICK IN SUPPORT OF
RESPONDENT/CROSS-PETITIONER
AIRPORT COMMUNITIES COALITION'S
EMERGENCY MOTION FOR INJUNCTIVE RELIEF
PURSUANT TO RAP 8.3**

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COPY

Peter J. Eglick declares as follows:

1. I am attorney of record for the Airport Communities Coalition (ACC). I have personal knowledge of the matters set forth below and am competent to testify concerning them.

2. The exhibits to this Declaration which are noted below as having been "produced by the Department of Ecology pursuant to PDA request" are public records produced by the Department of Ecology, specifically Ann Kenny of Ecology's Northwest Regional Office, in February of 2004 in response to a Public Disclosure Act ("PDA") request by my office pursuant to RCW 42.17.250, et seq.

3. Attached to this declaration as Exhibit A is a true and correct copy of a letter dated March 19, 2004, on behalf of ACC from myself to Senior Assistant Attorney General David Mears. The attachments to that letter are listed separately below, as Exhibits B through J. The letter outlines the facts contained in Exhibits B through J concerning imminent commencement of embankment construction and wetlands filling by the Port of Seattle. The Work Plan approved by Ecology for this construction includes materials and methods which will not only cause irreparable injury to the wetlands, but are also violative of the

Pollution Control Hearings Board's ("PCHB's") Order which the Port and Ecology have challenged in this Court, including specifically use of the SPLP procedure to approve fill materials which would otherwise fail to meet applicable fill criteria for heavy metals and other contaminants. The March 19, 2004, letter requests a response from Ecology by March 26, 2004, affirmatively stating that Ecology will not allow the Port to commence such construction overturning the status quo while review is pending in this Court and in violation of the PCHB's Order.

4. Attached to this declaration as Exhibit B is a true and correct copy of the Supreme Court Commissioner's Ruling Dismissing Original Action, Case No. 74039-9, dated July 11, 2003.

5. Attached to this declaration as Exhibit C is a true and correct copy of the Work Plan to Qualify Fill Materials, Third Runway and Related 404 Projects, Prepared for: Port of Seattle by Aspect Consulting; dated October 3, 2003 - Final, which was produced by the Department of Ecology as a public record pursuant to PDA request.

6. Attached to this declaration as Exhibit D is a true and correct copy of a Bid Call public notice published by the Port

of Seattle in the *Seattle Daily Journal of Commerce* online edition (www.djc.com) dated October 22, 2003, for the Port of Seattle, Third Runway -- 2004-05 Embankment/S. 154th St. Construction, Seattle-Tacoma International Airport.

7. Attached to this declaration as Exhibit E is a true and correct copy of a public record consisting of an email string (produced by the Department of Ecology pursuant to PDA request) dated November 4, 2003, from the Port of Seattle's Robin Kordik to Ecology's Ann Kenny, Re: ILA Charges for June, August, September and October 2003.

8. Attached to this declaration as Exhibit F is a true and correct copy of a public record consisting of an email string (produced by the Department of Ecology pursuant to PDA request) dated December 8, 2003, from Ecology's Ann Kenny to Ecology's Ching Pi Wang, Re: FW: consultants.

9. Attached to this declaration as Exhibit G is a true and correct copy of a public record (produced by the Department of Ecology pursuant to PDA request) entitled Project Overview, dated 1-30-04; Title: Third Runway Fill Bid Package Review and Third Runway Embankment Fill Monitoring Plan (EFMP) Review.

10. Attached to this declaration as Exhibit H is a true and correct copy of a printout from the Port of Seattle's website, Professional Services and Major Contract Opportunities, Bid Results and Awards, Solicitation Number 102013; Solicitation Title: Third Runway - 2004-05 Embankment/S. 154th St. Construction.

11. Attached to this declaration as Exhibit I is a true and correct copy of an article entitled "\$192.6M low bid on 3rd runway job," from the *Seattle Daily Journal of Commerce* online edition (www.djc.com), dated March 8, 2004.

12. Attached to this declaration as Exhibit J is a true and correct copy of a public record consisting of an email (produced by the Department of Ecology pursuant to PDA request) dated December 1, 2003, from Ecology's Ann Kenny to Ecology's Kevin Fitzpatrick, et al., Re: Third Runway Water Quality Inspector.

13. Attached to this declaration as Exhibit K is a true and correct copy of a letter dated March 24, 2004, from David K. Mears to me. This letter is Ecology's response to my March 19 letter (Exhibit A) on behalf of ACC.

14. Attached to this declaration as Exhibit L is a true and correct copy of a letter dated March 29, 2004, from myself to

Senior Assistant Attorney David K. Mears requesting a definitive response from Ecology by March 31, 2004, in light of public records indicating that construction would commence in April. As of execution of this Declaration on April 2, 2004, Ecology has not responded.

15. Attached to this declaration as Exhibit M is a true and correct copy of a public record consisting of an email string (obtained from the Department of Ecology via PDA request) dated August 18, 2003, from Ecology's Ann Kenny to the Port's Robin Kordik, Re: FW: Scope of Work, and its attachments: Letter dated August 15, 2003, from Shannon & Wilson's Katie Walter to Ecology's Ann Kenny; and Revised Work Plan.

16. Attached to this declaration as Exhibit N is a true and correct copy of a public record consisting of an email (produced by the Department of Ecology pursuant to PDA request) dated August 27, 2003, from the Port's Robin Kordik to the Department of Ecology's Ann Kenny, Re: Revised Work Plan, with its attachment (Port Comments, Revised Work Plan).


17. Attached to this declaration as Exhibit O is a true and correct copy of a public record consisting of an email string (obtained from the Department of Ecology via PDA request) dated

November 4, 2003, from Ecology's Ann Kenny to the Port's Robin Kordik, Re: Revised Scope of Work for Shannon and Wilson.

19. Attached to this declaration as Exhibit P is a true and correct copy of a public record consisting of an email string (obtained from the Department of Ecology via PDA request) dated June 10, 2003, from Ann Kenny to Kevin Fitzpatrick, et al., Re: FW: RFQ Material for Ecology/POS Interlocal Agreement; Request for Meeting.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2 day of April, 2004, at Seattle,
Washington.



Peter J. Eglick

G:\LU\ACC\PC\HB\Appeal-Supreme Ct\Decl-Motn for Stay.doc

Exhibit A

HELSELL
FETTERMAN

A Limited Liability Partnership

March 19, 2004

Peter J. Egluck
Attorney At Law

Sent via Fax and Mail

Mr. David K. Mears
Assistant Attorney General
Ecology Division
P. O. Box 40117
Olympia, WA 98504-0117

Re: *Port of Seattle v. Pollution Control Hearings Board, et al.*,
Supreme Court Case No. 73419-4

Dear Mr. Mears:

As you will recall, this office represents the Airport Communities Coalition in state and federal litigation regarding construction by the Port of Seattle of the proposed third runway at Sea-Tac Airport. As I am sure you are aware, the Supreme Court has not yet ruled on the parties' appeals of the PCHB's decision. Given the normal timeframe for its decisions, the Supreme Court may well not issue a ruling for several more months (the oral argument was November 18, 2003).

We write to bring to your attention an urgent matter concerning your client's compliance with the PCHB Order regarding the third runway as well as the intent of the Supreme Court. We therefore request immediate action by the Attorney General's Office to halt the Department of Ecology's approval of Port violations of certain key conditions in the PCHB's decision. Ecology's actions must be curtailed now because, as detailed below, Ecology is in the process of approving a Port of Seattle bid award for placement of nine million cubic yards of fill for the huge embankment upon which the runway would be built.

Both the Port and Ecology have appealed Condition No. 8 of the PCHB's Order, prohibiting use of the "Synthetic Precipitation Leaching Procedure" ("SPLP") to qualify fill for the project which would otherwise exceed limitations on toxic pollutants such as heavy metals. Apparently not confident of their appeals' outcome, last year the Port pushed through the Legislature -- with Ecology's support¹ -- a bill

¹ We have obtained PDA documents from Ecology indicating that, for example, Ray Hellwig and Ann Kenny of Ecology's NWRO actively participated in shaping the legislation, provided to the Legislature "facts" and opinions regarding the SPLP legislation which had actually originated with the Port, and

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Mr. David K. Mears
March 19, 2004
Page 2

which was intended (as we know from DOE Public Disclosure documents) to undermine the PCHB condition prohibiting use of SPLP. However, neither the Port nor Ecology has sought or obtained modification of the PCHB Order.

ACC responded to this legislation by filing a Petition Against State Officer with the Supreme Court suggesting imminent harm would occur if Ecology used the legislation as an excuse to ignore the PCHB's condition which was binding unless overturned by the Supreme Court. The Court Commissioner ultimately dismissed ACC's Petition. In doing so, he explicitly relied on Ecology assurances that the questions raised by the legislation would be addressed in the pending appeals and that no action based on the legislation would occur in the near term:

Should circumstances require, the Coalition may apply to this court for injunctive or other relief pending the decision in the appeal. At this time the Department of Ecology does not contemplate taking any immediate action based on SSB 5787, however.

Ruling Dismissing Original Action, Supreme Court Case No. 74039-9, dated July 11, 2003, at p. 2 (Attachment 1) (emphasis added).

Recently, ACC has obtained documents which indicate that Ecology has violated and is violating the premises upon which it asked the Commissioner to rely. These documents were obtained through the Public Disclosure Act from the Department of Ecology (via Ann Kenny at the NWRO). They concern Ecology's continuing participation in the Port's third runway project. They indicate that Ecology has, in coordination with the Port and without notice to the public, the PCHB, ACC or the Court affirmatively proceeded in blatant disregard of the PCHB's prohibition on use of the SPLP procedure. They further show that, within less than three months of its representations to the Supreme Court Commissioner, Ecology had authorized a Work Plan allowing the Port to use the SPLP procedure (barred by the PCHB Order) to approve fill for the project, including nine million cubic yards of fill for which a bid will be imminently awarded.

encouraged Ecology to adopt a positive "spin" on the legislation, despite repeated warnings from Ecology scientists (as opposed to administrators) of the legislation's shortcomings. Those documents will not be discussed here in detail, but they are indicative of the same approach as is shown by Ecology's willingness to ignore the PCHB's prohibition on use of the SPLP procedure, which this letter does address.

Mr. David K. Mears
March 19, 2004
Page 3

One such document is the Work Plan to Qualify Fill Materials, Third Runway and Related Projects, submitted to Ecology by the Port and dated October 3, 2003 (Attachment 2). While the fill criteria listed in Table 1 of the Work Plan (at p. 5) are those established by the PCHB's Order, Section 3.5 of the Work Plan ("Supplemental Analyses") is devoted to authorized use of SPLP. For example, it states:

If the 95% UCL for a metal exceeds the respective fill criterion and is below the Upper Bound Limit (defined below), the prospective fill source supplier may use the Synthetic Precipitation Leaching Procedure (SPLP) ...

Work Plan at p. 21.²

Additionally, while the Introduction to the Work Plan states that, "This Work Plan is prepared to satisfy Ecology and the Pollution Control Hearings Board (PCHB) requirements regarding the quality of fill imported for 404-projects construction" (Work Plan at 1), it then goes on to state:

Chemical testing is conducted on specific geologic units so that the soil quality of a prospective fill source will be known in advance of its import for construction. In addition, Synthetic Precipitation Leaching Procedure (SPLP) testing is included as a supplemental test for cases where uncontaminated potential fill sources are, based on their natural mineralogic composition, unable to meet the PCHB fill criteria for certain metals.

Work Plan at p. 2 (emphasis added).

Clearly, the Work Plan includes use of the SPLP procedure to qualify fill materials, in direct violation of the PCHB Order.

Not coincidentally, in October, 2003, the Port issued a bid notice for the "Third Runway - 2004-05 Embankment/S. 154th St. Construction" (copy attached as Attachment 3). The work involved includes:

Clearing and grubbing approximately 150 acres, construction of embankments comprising approximately 9,000,000 cubic yards, onsite excavation of 3,300,000 cubic yards, off-site import of 6,000,000 cubic yards, and removal

² The end of Section 3.5, Table 7, Applicable Water Quality Criteria for Comparison Against SPLP Results, also lists a completely different set of fill criteria, most of which are higher (i.e., less protective) than the PCHB-imposed criteria. Work Plan at p. 23.

Mr. David K. Mears
March 19, 2004
Page 4

and replacement of approximately 500,000 cubic yards of material for subgrade improvements.

Construction of approximately 200,000 SY of mechanically stabilized retaining walls.

Relocation of South 154th Street and 156th Way from Des Moines Memorial Drive to 24th Avenue South.

Associated work includes, but is not limited to, drainage, water, sewer and other utility installations; bridge construction; illumination installations; landscaping and temporary erosion and sediment control. Temporary erosion control measures including the expansion of 4 major sedimentation ponds, construction of 1 temporary sedimentation pond, construction of 1 treatment cell, as well as 2 minor pump ponds.

October 22, 2003, Bid Notice at p. 2. In other words, the work comprises a major portion of the 23-million-cubic-yard embankment, especially given the several million cubic yards of fill already at the site.

There is no question that Ecology approved the Port's Work Plan, including use of SPLP, so that it could be used for this bid. In an email dated November 4, 2003, Ann Kenny lists duties she performed related to the third runway project, including:

Approved Port's Fill Sample and Analysis Plan (see letter dated October 1, 2003).³

Attachment 4 at p. 3. In a subsequent email dated December 8, 2003, Ms. Kenny specifically discusses a Port/Ecology bid review process and again mentions that Ecology had approved the Port's fill sampling plan for the bid:

I need a consultant in two areas: (1) To review the top three bid proposals the Port receives to ensure that the fill that has been identified meets the criteria established in the 401, as modified by the PCHP [sic] (and the approved sampling and analysis plan that Pete Kmet helped me with);

³ We apparently did not receive this letter in response to our PDA request. Ms. Kenny's wording confirms that Ecology was in the process of approving violations of the PCHB decision within two months or less of the Supreme Court Commissioner's Order.

Mr. David K. Mears
March 19, 2004
Page 5

Attachment 5.

Further, a Project Overview dated January 30, 2004, for the Third Runway Fill Bid Package Review and Third Runway Embankment Fill Monitoring Plan Review (Attachment 6) addresses an agreement between the Port and Ecology for Ecology to review the embankment bid materials for, *inter alia*, placement of nine million cubic yards of fill, and explicitly acknowledges that Ecology's review will be based upon the October Work Plan incorporating illegal use of the SPLP test loophole:

A. Fill Bid Package Review: The 401 Water Quality Certification issued to the Port of Seattle (Port) for construction of the Third Runway at the Seattle-Tacoma International Airport requires the Port to submit information regarding fill sources to the Department of Ecology for review and approval in advance of placement on-site. The Port, in its recent RFP/RFQ, has required potential bidders to identify potential fill sources and to evaluate them for compliance with the fill criteria using a Work Plan approved by Ecology (*Work Plan To Qualify Fill Materials*, Aspect, October 3, 2003 Final, see attached). Bid packages are due to the Port at the end of February 2004. The Port will evaluate the bid packages and fill sources for compliance with the bid specs and the approved Work Plan. The Port will forward the top three packages to Ecology on or about March 5, 2004 for Ecology concurrence that the identified fill sources meet the fill criteria as defined in the Work Plan. Ecology has agreed to provide the results of its review to the Port at the end of a ten (10) calendar-day review period.

Project Overview at p. 1 (Attachment 6).

ACC has now learned that, on March 5, 2004, the Port closed the bid process for the 2004-05 Embankment work.⁴ Per the Project Overview, Ecology may well even now be reviewing the bids on a ten-day timeframe. The urgent nature of this matter -- and of the need for Attorney General action -- is clearly spelled out in an email from Ms. Kenny dated December 1, 2003, stating:

Construction could begin in April.

⁴ See Attachment 7 (Port of Seattle website, Bid Results and Awards page for Third Runway - 2004-05 Embankment/S 154th St Construction) and Attachment 8 (*Daily Journal of Commerce* article dated March 6, 2004, entitled "\$192.6M low bid on 3rd runway job"). Sea-Tac spokesman Bob Parker asserts in the article that, "We are scheduling work for this year we think we can do according to the current law."

Mr. David K. Mears
March 19, 2004
Page 6


Attachment 9 (emphasis added). More to the point, placement of nine million cubic yards of fill violating PCHB limits on toxic pollutants based on the SPLP procedure could begin next month.

Therefore, this letter is to demand that the Attorney General provide immediate and unequivocal written assurance that Ecology will not approve any bids involving use of the SPLP procedure (or violation of any other PCHB Order condition) until, if and when the Supreme Court rules otherwise, and that Ecology will immediately advise the Port that any such actions would be illegal, unpermitted, and actionable.

It would have been preferable if Ecology had kept all involved apprised of its actions reflecting on the premise which had recently been communicated to the Supreme Court Commissioner. Now, in light of the urgency of this matter, it is necessary that your office provide a definitive response no later than the close of business on March 26, 2004.

Sincerely,

HELSELL FETTERMAN LLP



Peter J. Eglick

Enclosures (as noted)

cc: Joan Marchioro, w/encs

Exhibit B

RECEIVED
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HELSELL FETTERMAN, LLP

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AIRPORT COMMUNITIES
COALITION,

Petitioner,

v.

THOMAS FITZSIMMONS, a State
Officer in his capacity as Director of
Ecology,

Respondent,

and

THE PORT OF SEATTLE, a municipal
corporation,

Additional Respondent.

NO. 74039-9

RULING DISMISSING ORIGINAL
ACTION

By this petition against a state officer, under CONST. art. IV § 4 and RAP 16.2, the Airport Communities Coalition seeks writs of mandamus and prohibition to prevent Thomas Fitzsimmons, as Director of the Department of Ecology, "from taking or authorizing any action with respect to the Port of Seattle's § 401 Certification [for the Port's third runway project at Seattle-Tacoma International Airport] based upon SSB 5787." Amended Petition at 42. The Coalition's legal contention is that SSB 5787, enacted by the 2003 Legislature, cannot validly affect a prior decision of the Pollution Control Hearings Board concerning the third runway project. The petition came before me under RAP

43/222

JUL 14 2003

Attachment 1

16.2(d) to determine if it should be decided by this court, transferred to a superior court, or dismissed. This ruling confirms my preliminary decision, discussed with counsel during oral argument on July 10, 2003.

The validity of SSB 5787 as applied to the third runway project will be before the court in the already-pending appeal from the Board's decision, *Port of Seattle v. Pollution Control Hearings Board*, No. 73419-4. All the parties in this action are also parties in that appeal. And because that appeal can provide the Coalition with a plain, speedy, and adequate remedy at law, an extraordinary writ will not lie. This petition is accordingly dismissed.

For the benefit of the parties in going forward, I note that my decision is premised in part on several points:

- (1) The Port of Seattle has stipulated that it will raise SSB 5787 (arguing that the statute essentially moots a portion of the Board's decision) in its opening brief in the appeal. Together with the Coalition's briefing in response, this will insure that the issues regarding the statute are fully presented to the court.
- (2) The Coalition may wish to use RAP 9.11 (allowing additional evidence on review) to provide an evidentiary basis for the apparent fact that the third runway project is the only project to which a portion of SSB 5787 applies. The Department and the Port should offer the Coalition reasonable cooperation on this point.
- (3) Should circumstances require, the Coalition may apply to this court for injunctive or other relief pending the decision in the appeal. At this time the Department of Ecology does not contemplate taking any immediate action based on SSB 5787, however.

Finally, the Chief Justice has now granted the motion of various environmental organizations to appear as amicus curiae, but in the appeal rather than in this case. I will confirm that decision by separate letter.


COMMISSIONER

July 11, 2003

Exhibit C

**WORK PLAN TO
QUALIFY FILL MATERIALS
Third Runway and Related 404 Projects
Prepared for: Port of Seattle**

Project No. 030015-001 • October 3, 2003 • Final

Aspect Consulting, LLC

Steve Germiot, LG, CGWP
Associate Hydrogeologist
sgermiot@aspectconsulting.com

Lori J. Herman, LG, CGWP
Principal Hydrogeologist
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V:\030015 Port of Seattle Fill Criteria\1002 Final Fill Criteria Work Plan.doc

Attachment 2

Contents

1	Introduction	1
2	PART 1. Fill Source Environmental Assessment	2
2.1	Phase I Environmental Site Assessment.....	3
2.2	Phase II Investigation of Potential Contamination	4
3	PART 2. Fill Source Sampling and Analysis Plan	5
3.1	Fill Supply Source and Geologic Characterization	7
3.2	Field Sampling.....	8
3.2.1	Number of Samples.....	9
3.2.2	Site-Specific Sampling Approach.....	9
3.2.3	Soil Logging and Field Documentation	13
3.2.4	Sample Handling and Custody.....	13
3.2.5	Equipment Decontamination	14
3.3	Laboratory Analysis	14
3.3.1	Analytical Methods and Reporting Limits.....	14
3.3.2	Laboratory Requirements.....	15
3.3.3	Laboratory Documentation and Reporting	18
3.3.4	Data Quality Review	18
3.4	Data Evaluation	19
3.4.1	Potential Outliers	19
3.5	Supplemental Analyses	21
4	Reporting	23
4.1	PART 1. Environmental Site Assessment Report.....	23
4.2	PART 2. Fill Source Sampling and Analysis Report.....	25
5	References	28

1 Introduction

This Work Plan establishes requirements and protocols for qualifying imported fill materials intended for use in the Third Runway, Runway Safety Areas, South Aviation Support Area, and other appropriate Master Plan Update Improvements (hereafter referred to as "404 Projects") as determined by the Port and the Washington State Department of Ecology (Ecology). The work to be conducted under this plan is developed to fulfill Condition E.1 of the Port's 401 Water Quality Certification (Order #1996-4-02325 (Amended) dated September 21, 2001) for the 404 Projects.

This Work Plan is prepared to satisfy Ecology and the Pollution Control Hearings Board (PCHB) requirements regarding the quality of fill imported for 404-project construction. This Work Plan also meets the requirements of the US Fish and Wildlife Service (FWS) Biological Opinion (BO) for fill quality.

To fulfill these requirements, this Work Plan establishes a two-part process: PART 1 is an Environmental Assessment that is conducted to prohibit contaminated soil from being included in a prospective fill source. The PART 1 assessment includes a Phase I Environmental Site Assessment (ESA) and, if necessary, a Phase II investigation, completed in accordance with ASTM requirements. PART 2 is a rigorous sampling and analysis program intended to ensure that the fill imported for these projects meets all applicable fill criteria. The PART 1 assessment and the PART 2 fill characterization tasks presented in this Work Plan were developed with the following features to enable satisfaction of the requirements of Ecology, the PCHB and the FWS:

- **Definition of Contamination:** For work conducted under 401 Condition E.1, as modified by the PCHB decision, soil with chemical concentrations above the higher of Puget Sound background constituent concentrations or laboratory Practical Quantitation Limits (PQLs), will be considered contaminated.
- **Specific soil quality criteria:** The PCHB decision established fill criteria at "natural background" levels or "back calculated" levels where natural background levels do not exist, for 14 metals and TPH. Despite use of the term "natural background", studies conducted on uncontaminated borrow site soils identified the likelihood that in some undisturbed geologic units, concentrations of some constituent metals will fail the criteria based on geologic origin and/or the natural variability in geologic deposits.
- **A large number of samples:** Consistent with the PCHB ruling, this Work Plan requires a sufficient number of samples to enable defensible statistical evaluation of the soil quality data of the fill to be supplied, by calculation of the 95% upper confidence level (UCL) of the mean soil quality in accordance with MTCA.
- **Sampling designs that address geologic variability and provide a rigorous, yet practical, approach to pre-certifying prospective fill sources for 404 project construction:** This sampling design includes geologic characterization in conjunction with soil sampling to provide data representative of specific geologic

units. Chemical testing is conducted on specific geologic units so that the soil quality of a prospective fill source will be known in advance of its import for construction. In addition, Synthetic Precipitation Leaching Procedure (SPLP) testing is included as a supplemental test for cases where uncontaminated potential fill sources are, based on their natural mineralogic composition, unable to meet the PCHB fill criteria for certain metals.

- Fill proposed for the embankment by bidders is likely to be made available from currently unexcavated, in-place sources, or from previously excavated material currently stored in stockpiles. Regardless of the source, all imported embankment fill must satisfy the requirements of this Work Plan as detailed in Sections 2, 3, and 4. The PCHB concluded that material already imported to the airport site at the time of the PCHB decision (August 12, 2002) is not subject to this Work Plan.
- This Introduction section is a brief summary of the requirements for fill qualification for the 404 projects. The following sections provide significant task detail. All work undertaken to qualify fill for this project must satisfy each and every work element described in the remainder of this document.

2 PART 1. Fill Source Environmental Assessment

As required by 401 Condition E.1, sources of imported fill material will be limited to state-certified borrow pits, contractor-certified construction sites (e.g. construction sites, stockpiles from documented sources), and gravel mining sites or other borrow sources permitted as appropriate through government agencies (federal, state, provincial, etc). The origin of each proposed fill source must be documented, and the specific area of occurrence from which the fill material will be supplied to the Port must be defined. Fill material will not be accepted from sources that are in whole or in part contaminated, or were previously, even if the contaminated soil has been treated and is now considered "clean". Fill material cannot contain asphalt, concrete, wood waste, or other construction debris.

This section of the Work Plan outlines the PART 1 of the fill source qualification process. PART 1 is an Environmental Assessment that must be performed to establish that the proposed fill source is free of contamination. The PART 1 process includes a Phase I ESA that identifies the potential for contamination based on historical use of the site or surrounding properties. If a potential for contamination is identified during the Phase I ESA, additional data review, including if necessary a Phase II investigation, must be completed to identify whether contamination is, in fact, present, and, if so, to clearly define the extent of contamination. Any area of contamination that is identified must then be excluded from the proposed fill source.

3.5 Supplemental Analyses

If the 95% UCL for a metal exceeds the respective fill criterion and is below the Upper Bound Limit (defined below), the prospective fill source supplier may use the Synthetic Precipitation Leaching Procedure (SPLP), EPA Method 1312, to provide a more accurate measure of whether the metal(s) of interest would leach from the soil at concentrations that could impact area wetlands, streams, or aquifers.

Based on provisions of the US Fish and Wildlife Service BO, no soil will be accepted for Port 404 Projects that contains concentrations of metals (95% UCL on the mean) above MTCA Method A unrestricted soil cleanup levels, irrespective of SPLP testing. These Method A soil cleanup levels therefore represent Upper Bound Limits. If the 95% UCL concentration for a metal exceeds the respective Upper Bound Limit, confirmation SPLP testing may not be conducted for that metal, and the fill source is unacceptable for Port 404 Projects. The Upper Bound Limits are as follow:

- Arsenic: 20 mg/kg
- Cadmium: 2 mg/kg
- Chromium: 2000 mg/kg
- Lead: 250 mg/kg; and
- Mercury: 2 mg/kg.

The SPLP methodology will be used to assess the fill suitability only in cases where natural deposits, unaltered by any past land use with potential for contributing constituent contamination, contain a particular metal(s) elevated above the fill criteria and below the Upper Bound Limits. Because the fill criterion for TPH is total absence of "refined" TPH, operationally set at the PQL, SPLP testing cannot be used for TPH.

SPLP testing may be conducted only after the total metals concentration data have been evaluated and potential exceedences of fill criteria (total metals) identified. SPLP data generated prior to determination of the total metals 95 % UCL will not be accepted.

If the 95% UCL for a metal is above the respective fill criterion, and the prospective fill source supplier proposes to use SPLP as a supplemental test to evaluate whether concentrations of that metal have the potential to leach at levels above water quality criteria, all samples that exceed the fill criteria must be analyzed.

The SPLP extraction shall be performed as per the SW-846 Method 1312. In the SPLP extraction, extraction fluid #2 (pH = 5.0), representing acid rain west of the Mississippi River, shall be used. The SPLP leachate from each individual sample that exceeds fill criteria will be analyzed using the analytical methods specified in Table 6. SPLP leachate testing will be performed for only the specific metal (or metals) that exceeded the fill criterion in the totals analysis of that sample. Note that the detection levels for SPLP leachate sample analyses are significantly lower than typically associated with this testing procedure. It will be critical that bidders and/or prospective fill source suppliers pre-notify the laboratory of these detection levels and request/contract for ultra clean laboratory procedures.

Table 6 - Analytical Methods and Practical Quantitation Limits for SPLP Leachate (following extraction by EPA Method 1312)

Analyte	Analysis Method	Leachate PQL in ug/L
Antimony	EPA 6020/200.8	3
Arsenic	EPA 6020/200.8	1
Barium	EPA 6020/200.8	10
Beryllium	EPA 6020/200.8	1
Cadmium	EPA 6020/200.8	0.5
Chromium	EPA 6020/200.8	1
Copper	EPA 6020/200.8	1
Lead	EPA 6020/200.8	1
Mercury	EPA 1631	0.01
Nickel	EPA 6020/200.8	1
Selenium	EPA 6020/200.8	1
Silver	EPA 6020/200.8	0.1
Thallium	EPA 6020/200.8	1
Zinc	EPA 6020/200.8	10

The SPLP testing will be conducted on three replicate aliquots obtained from the sample jar from which an aliquot was initially tested for total metals concentrations, unless insufficient sample remains. In this case, samples may be obtained from one of the additional archived sample jars from that same sample location. An arithmetic average of the analytical results of the three replicate SPLP measurements shall be calculated from these data. In calculating the arithmetic average, non-detected results shall be assigned a value equal to the analytical detection limit. The arithmetic average of the three SPLP replicate sample analyses shall be used for all SPLP data evaluations.

Data generated from the analysis of the SPLP leachate (the arithmetic average of the triplicate results for each sample, including the detection limit value for non-detects) shall be adjusted by dividing the arithmetic average by a factor of 10, an Ecology-approved default dilution factor. The result of that calculation will be compared against the water quality criteria listed in Table 7. If the adjusted SPLP results from the samples tested are equal to or below the water quality criteria in Table 7, the soil will have acceptable concentrations of the metal(s) analyzed by SPLP for use as imported fill to the 404 Project. If one or more of the adjusted SPLP results exceed the water quality criteria in Table 7, the soil is unacceptable for use as imported fill.

Table 7 – Applicable Water Quality Criteria for Comparison Against SPLP Results

Constituent	Most Stringent of Groundwater or Surface Water Quality Criterion in ug/L	Criterion Source
Antimony	6	b
Arsenic	14.75	c
Barium	1450	a
Beryllium	4	b
Cadmium	1.03	a
Chromium	100	b
Copper	11.4	a
Lead	2.5	a
Mercury	0.012	a
Nickel	100	b
Selenium	5	a
Silver	0.12	a
Thallium	2	b
Zinc	104	a

Criteria sources:

- a. These values were chosen from the following sources (in this order): (1) Ecology water quality standards for surface water (Chapter 173-201A WAC); (2) criteria proposed by US EPA (silver); and (3) chronic effects threshold values in the US EPA AQUIRE database (barium), see Parametrix (2002) reproduced as Appendix D in this Work Plan. For hardness dependent criteria calculated under Chapter 173-201A WAC, a hardness of 100 mg/L was assumed.
- b. Chapter 173-200 WAC, Implementation Guidance for Ground Water Quality Standards (Ecology 1996)
- c. Local area background value, as provided for in Chapter 173-200 WAC. Determination of background water quality value for arsenic is in process, in conjunction with performance of 401 Condition E.3; presented values are current estimates for the 95% Tolerance Interval based on statistical analysis of data collected to date from 14 groundwater monitoring wells.

4 Reporting

Documentation to be submitted to the Port for each prospective fill source will include two reports addressing PART 1 and PART 2 of the fill qualification process. To facilitate the bidding and review process, the reports will consist of a series of forms and attachments with which bidders will present required information in a consistent manner. These forms are provided in Appendix A. PART 1 and Appendix B. PART 2 to this Work Plan. The requirements for these two reports are outlined below.

4.1 PART 1. Environmental Site Assessment Report

The findings from the Phase I ESA, and if required, Phase II Investigation, will be provided in the PART 1. Forms 1 through 7. The report includes the information described in Section 2 of this Work Plan as summarized below.

Exhibit D



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First Publication: October 22, 2003

Port of Seattle

Third Runway

Bid Date: Jan. 20, 2004

Bid Documents shown as Preliminary - Not for Construction, are being issued with the advertisement of the project. It is anticipated the Final Bid Documents will be issued by addendum in December 2003.

Sealed bids will be received by the Director, Engineering Services, Port of Seattle, at the Engineering Department Bid Desk, 2nd floor, Pier 69, Seattle, Washington, until, January 20, 2004, 2:00 P.M. for

Third Runway – 2004-05 Embankment/S. 154th St. Construction

Seattle-Tacoma International Airport

The bids will then and there be publicly opened and read aloud. Any bids received after the time for opening cannot be considered.

Bid documents may be examined at the above-named office Monday through Friday between 8:00 a.m. and 12:00 noon and 1:00 p.m. and 4:30 p.m., and may be obtained for bidding purposes upon payment of \$100.00 for each set (non-refundable). Bid documents are also available on CD-Rom at no charge.

Mailing Address:

Port of Seattle Bid Desk

2711 Alaskan Way

Seattle, WA 98121

Bid Desk Telephone: (206) 728-3110

Web address: www.portseattle.org (Web path: "Business Opportunities" / "Major Construction Projects")

Bid documents will not be mailed to Bidders within the greater Seattle metropolitan area.

THIS IS A PROJECT LABOR AGREEMENT (PLA) PROJECT

The Work includes:

Attachment 3

Clearing and grubbing approximately 150 acres, construction of embankments comprising approximately 9,000,000 cubic yards, onsite excavation of 3,300,000 cubic yards, off-site import of 6,000,000 cubic yards, and removal and replacement of approximately 500,000 cubic yards of material for subgrade improvements.

Construction of approximately 200,000 SY of mechanically stabilized retaining walls.

Relocation of South 154th Street and 156th Way from Des Moines Memorial Drive to 24th Avenue South.

Associated work includes, but is not limited to, drainage, water, sewer and other utility installations; bridge construction; illumination installations; landscaping and temporary erosion and sediment control. Temporary erosion control measures including the expansion of 4 major sedimentation ponds, construction of 1 temporary sedimentation pond, construction of 1 treatment cell, as well as 2 minor pump ponds.

The Engineer's estimate range for this project is \$140,000,000 - \$180,000,000.

Each bid must be accompanied by a cashier's check, money order, or surety bid bond, in an amount of not less than five percent (5%) of the total bid, made payable to Port of Seattle. The Special Contractor Submittal as spelled out in Document 00411, must be submitted with bid package at the time of bid opening. Performance and Payment bonds will be required with the Contract.

Time limit for substantial completion of the work is (654) calendar days. The Port reserves the right to reject any and all bids, to waive any informality, to accept any alternate bids, and to make such award that it deems to be in its best interest and pursuant to the terms of the General Conditions. Contract time extends from Award of the contract through Contract Completion as defined in the General Conditions.

No pre-bid conference is scheduled at this time. The time and location of the pre-bid conference will be announced by addendum.

The proposed contract is under and subject to Executive Order 11246 of September 24, 1986 and to the Equal Employment Opportunity (EEO) and Federal labor provisions. All labor on the project shall be paid no less than the minimum wage rates established by the U.S. Secretary of Labor.

Each bidder must supply all the information required by the bid documents and specifications. The EEO requirements, labor provisions and wage rates are included in the specifications, and bid documents are available for inspection at the offices of the Port of Seattle, 2711 Alaskan Way, Seattle, WA.

The contractor or subcontractor having 50 or more employees and who may be awarded a contract of \$50,000 or more will be required to maintain an affirmative action program, the standards for which are contained in the FAA special provisions.

Where the low bid is in the amount of one million dollars or more, the bidder and his known first-tier subcontractors which will be awarded subcontracts of one million dollars or more will be subject to pre award compliance reviews for the purpose of determining whether the bidder and his subcontractors are able to comply with the provisions of the equal opportunity clause. To be eligible for award each bidder must comply with the affirmative action requirements, which are contained in the FAA special provisions.

The Port of Seattle in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 USC 2000a to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, non-

discrimination in Federally- assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprise will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

Portions of this contract will be funded in part by a grant from the FAA. In accordance with federal requirements, the Port has determined that this contract has subcontracting possibilities and has established a goal on this contract of eleven percent (11%) for the use of firms owned and controlled by Disadvantaged Business Enterprise (DBE). All bidders are directed to the FAA Special Provisions and Document 00830, Equal Employment and Affirmative Action Requirements with regard to the procedures the Port will utilize to achieve these goals. Each bidder shall furnish with his bid the Disadvantaged Business Enterprise Proposal form as required by the FAA Special Provisions and as contained in Document 00830, Equal Employment and Affirmative Action Requirements.

Women will be afforded equal opportunity in all areas of employment. However, the employment of women shall not diminish the standards or requirements for the employment of minorities.

The Port of Seattle is an Equal Opportunity Employer and encourages Minority Business Enterprises and Women Business Enterprises to participate in the competitive bidding process.

Dated at Seattle, Washington, October 22, 2003.

AUTHORIZED BY THE

PORT COMMISSION OF THE PORT OF SEATTLE

Raymond P. Rawe

Director, Engineering Services, PORT OF SEATTLE

Date(s) of publication: October 22, 2003; October 29, 2003

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Exhibit E

Grad, Andrea E.

From: Kordik, Robin [kordik.r@portseattle.org]
Sent: Tuesday, November 04, 2003 12:33 PM
To: Kenny, Ann
Subject: RE: ILA Charges for June, August, September, and October 2003

Thanks Ann, I'll process the payment requests for June 03. I haven't seen the July thru Sept 03 requests yet.

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

From: Kenny, Ann [mailto:AKEN461@ECY.WA.GOV]
Sent: Tuesday, November 04, 2003 10:51 AM
To: Kordik, Robin
Subject: FW: ILA Charges for June, August, September, and October 2003

This backup material relates to Ecology contract number: C002068.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

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

From: Kenny, Ann
Sent: Tuesday, November 04, 2003 10:24 AM
To: 'Kordik, Robin'
Cc: Hellwig, Raymond
Subject: ILA Charges for June, August, September, and October 2003

Robin,

Per your request I am providing the Ecology invoice back up information for June 2003 as well as for August through October 2003. I already provided the information for July on August 12, 2003.

Please let me know if you have any questions regarding any of the information provided below.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

June 2003:

Document Management: Hilary Woods continued work on inputting information into our Third Runway database. She worked approximately 40 hours per week.

Project Management and Coordination: Ann Kenny. Time charged to ILA in June was 72.5 hours.

Attachment 4

Daily: Review Third Runway schedule for items that are due to Ecology, respond to e-mails or phone calls from Port staff as necessary, coordinate with other Ecology staff regarding Third Runway issues, records management, contract management, etc. Coordinate daily or as necessary with Robin Kordik regarding project.

Meetings: June 5th, Weekly coordination meeting with Robin Kordik and other staff as needed.

June 19th, Weekly coordination meeting with Robin Kordik and other staff as needed.

June 26th, Meeting to discuss Port's Fill Sample and Analysis Plan (Robin Kordik, Lori Herman, and Paul Agid).

(Time charged for meetings includes meeting preparation and follow-up on issues raised during the meetings.)

Document Review:

Reviewed Fill Sample and Analysis Plan and discussed with Pete Kmet.

August 2003:

Project Management and Coordination: Ann Kenny. Time charged to ILA in August was 38 hours. I was on vacation the week of August 25th.

Daily: Review Third Runway schedule for items that are due to Ecology, respond to e-mails or phone calls from Port staff as necessary, coordinate with other Ecology staff regarding Third Runway issues, records management, contract management, etc. Coordinate daily or as necessary with Robin Kordik regarding project.

Meetings: August 1st, weekly coordination meeting with Robin Kordik and other staff.
August 7th, weekly coordination meeting with Robin Kordik and other staff.

(Time charged for meetings includes meeting preparation and follow-up on issues raised during the meetings.)

Document Review:

Majority of time this month spent on coordinating Ecology's review of the Port's Fill Sample and Analysis Plan.

September 2003:

Project Management and Coordination: Ann Kenny. Time charged to ILA in August was 79.5 hours.

Daily: Review Third Runway schedule for items that are due to Ecology, respond to e-mails or phone calls from Port staff as necessary, coordinate with other Ecology staff regarding Third Runway issues, records management, contract management, etc. Coordinate daily or as necessary with Robin Kordik regarding project.

Meetings: Sept. 4th, weekly coordination meeting with Robin Kordik and other staff.

Sept. 10th, meeting with Paul Agid to review Port's response to Ecology's comments on the Fill SAP.

Sept. 15th, meeting in Lacey with Paul Agid and Mike Riley to discuss Fill SAP with Pete Kmet.

Sept. 29th, meeting with Paul Agid to review Port's revised Fill SAP.

(Time charged for meetings includes meeting preparation and follow-up on issues raised during the meetings.)

Document Review:

September 19, 2003: Approved Port's Applicability document for fill criteria (see letter dated 9/19/03). (Also, at some point 10 hours for Rod Thompson's time spent on this document and on the Embankment Fill Monitoring Plan will show up on our invoices.)

Majority of time this month spent on coordinating Ecology's review of the Port's Fill Sample and Analysis Plan. [I believe Pete Kmet billed some time for reviewing the Fill SAP to the ILA.]

October 2003:

Project Management and Coordination: Ann Kenny. Time charged to ILA in August was 62.3 hours.

Daily: Review Third Runway schedule for items that are due to Ecology, respond to e-mails or phone calls from Port staff as necessary, coordinate with other Ecology staff regarding Third Runway issues, records management, contract management, etc. Coordinate daily or as necessary with Robin Kordik regarding project.

Meetings: Oct. 23rd, meeting with Paul Agid, Leslee Conner and Robin Kordik re EFMP.

Oct. 28th, meeting with Port and COE re impervious surfaces, site visit.

Oct. 31st, Meeting with Port and DesMoines Creek Basin Plan re RDF. Internal Ecology meeting re staffing for ILA.

(Time charged for meetings includes meeting preparation and follow-up on issues raised during the meetings.)

Document Review:

October 1, 2003: Approved Port's Fill Sample and Analysis Plan (see letter dated October 1, 2003).

Working on new scope of work for Shannon and Wilson contract.

Exhibit F

Grad, Andrea E.

From: Kenny, Ann [AKEN461@ECY.WA.GOV]
Sent: Monday, December 08, 2003 2:37 PM
To: Wang, Ching-Pi
Subject: FW: consultants

Hi Ching-Pi,

I am looking at using consultants to help me on the next phases of the runway project.

I need a consultant in two areas:

1. To review the top three bid proposals the Port receives to ensure that the fill that has been identified meets the criteria established in the 401, as modified by the PCHP (and the approved sampling and analysis plan that Pete Kmet helped me with); and
2. Someone to step in and help us complete the review of the Embankment Fill Monitoring Plan that you, Rod Thompson and Dave South have so far been involved in reviewing. I'm particularly looking for someone who can help us with the statistical analysis.

Can you take a look at the list of possible consultants that Paul Agid has put together and let me know if you have any knowledge of them and whether they'd be able to help us?

I'd really appreciate it. (And, if I find a good consultant, I won't need to take up anymore of your time on this project!) Please let me know if you have any questions.

Thanks.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

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

From: Agid, Paul [mailto:agid.p@portseattle.org]
Sent: Friday, November 14, 2003 11:22 AM
To: Kenny, Ann
Subject: consultants

11/14, Ann: Thanks for asking for our input on consultant selection.

As you know, for the bid review, a consultant should have a strong background in construction bidding. In addition, the consultant should be familiar with (i.e., needs to know something about, but not necessarily have a strong background in) Phase 1 ESAs; and should have a strong background in geology and environmental site characterization and cleanup.

For the EFMP work, it's likely (although not necessary) that you'll need several people to cover the various skills. Fundamentally, you'll want a team leader with significant experience in projects having to

Attachment 5

2/3/2004

do with ground water and surface water quality, particularly contaminant migration; and someone with a strong background and significant experience in ground water statistics (experience that consists of routine application of MTCA statistics will not be at all sufficient). Because of the nature of the work to be conducted for the EFMP, it is very important that the review team have senior-level applied experience.

Here's a list of consultants that do not have significant Port work (as noted). This is a blind list -- names we know but, unless otherwise noted, firms and people with whom we have no experience and about whom we have no specific information. The list is provided in no particular order.

The first four have full contact info because they attended the Port's annual contractor workshop. The rest of the names were generated by our staff and consultants.

Mr. John Brasino Environmental Partners 10940 NE 33rd Place Bellevue, WA 98004 (limited Marine side work)

Mr. Thomas H. Redd, PE Premier Environmental Services, Inc. 150 Nickerson Street, Suite 109 Seattle, WA 98109 email thredd@premiercorp-usa.com <<mailto:thredd@premiercorp-usa.com>>

Mr. Mark Larson Retec 1011 S. W. Klickitat Way Suite 207 Seattle, WA 98134 mlarsen@retec.com <<mailto:mlarsen@retec.com>> (Marine side work)

Ms. Melissa Kleven ARCADIS Kirkland 11411 NE 124th Street, Suite 270 Kirkland, WA 98034 MKleven@ARCADIS-US.com <<mailto:MKleven@ARCADIS-US.com>>

Delta Environmental (Works with Olympic Pipeline in an "adversarial" position relative to the Port.)

Foster Wheeler (I worked with Reid Carscaddon when I was with Landau; he would be excellent for bid review.)

Shannon and Wilson (I don't have current info, but I think Robin might.)

PGG (Pony's team would be excellent for the EFMP and probably for the bid review as well. While they have worked under contract to the Port on the runway previously, they have also worked under contract to Ecology on the runway [gravel study]. I don't know if they are still under contract to the Port, but I'm not aware that they've done anything for us for some time.)

Ground Water Solutions (Portland firm reputed to have excellent skills.)

John Littler (Sole practice, ex-Parametrix [10-15 years ago] and ex-Ecology and Dept of Health; reputed to have excellent skills and is very practical.)

Hope this is useful....Paul

Paul W. Agid
Sr. Env. Program Manager
Port of Seattle
206-439-6604
206-988-5636 (fax)

Exhibit G

Project Overview

1-30-04

Category of Service: Waste Management and Remediation

Title: Third Runway Fill Bid Package Review and Third Runway Embankment Fill Monitoring Plan (EFMP) Review

Estimated Budget:

- A. Fill Bid Package Review: \$20,000.
- B. EFMP Review: \$50,000.

Project Description:

A. Fill Bid Package Review: The 401 Water Quality Certification issued to the Port of Seattle (Port) for construction of the Third Runway at the Seattle-Tacoma International Airport requires the Port to submit information regarding fill sources to the Department of Ecology for review and approval in advance of placement on-site. The Port, in its recent RFP/RFQ, has required potential bidders to identify potential fill sources and to evaluate them for compliance with the fill criteria using a Work Plan approved by Ecology (*Work Plan To Qualify Fill Materials, Aspect, October 3, 2003 Final, see attached*). Bid packages are due to the Port at the end of February 2004. The Port will evaluate the bid packages and fill sources for compliance with the bid specs and the approved Work Plan. The Port will forward the top three packages to Ecology on or about March 5, 2004 for Ecology concurrence that the identified fill sources meet the fill criteria as defined in the Work Plan. Ecology has agreed to provide the results of its review to the Port at the end of a ten (10) calendar-day review period.

Once the Port selects a fill source, it is possible that alternate sources of fill may become available to the Port's contractor. Any alternate sources must be reviewed by Ecology to assure that the fill meets the criteria in the Work Plan. Consequently, this contract will include a contingency for on-call consultant review services to ensure that any alternate proposed sources meet the criteria required by the Work Plan. A two-week (ten business-days) turn around period will be allowed for this review.

B. EFMP Review: Condition E. 3 of the above 401 Water Quality Certification requires the Port to submit for review and approval a fill seepage monitoring plan to monitor the performance of the fill criteria in order to assure that they function as predicted. If the screening protocols and fill criteria of the Fill Work Plan are properly implemented, it is predicted that the quality of the ground water, embankment fill seepage water, and the receiving surface water bodies should not be adversely impacted by the embankment fill. However, if monitoring results show that the seepage discharging from the fill is not of the quality expected, Ecology will require that revisions to the fill screening protocols or the fill criteria be implemented, or that corrective action be taken to prevent water quality violations from occurring.

Project Duration: From February 16, 2004 to June 30, 2005.

Attachment 6

Consultant Objectives:

- A. Fill Bid Package Review: Provide technical review of fill bid packages submitted to the Port of Seattle for construction of the Third Runway to ensure that the selected source complies with the criteria established in the Fill Sample and Analysis Work Plan approved by the Department of Ecology. Bid packages reviewed by Ecology will be pre-screened by the Port; only packages the Port believes comply with the Work Plan will be sent to Ecology for review.
- B. EFMP Review: Attend meetings with Port of Seattle along with Ecology staff and develop recommendations for appropriate sampling strategy and data evaluation methodologies. Once a draft EFMP is received from the Port, the consultant will provide a technical review of Embankment Fill Monitoring Plan with recommendations back to Ecology.

Specific Challenges:

- A. Fill Bid Package Review: Review up to three bid packages within in a seven (7) calendar-day working time frame (starting on approximately March 5, 2004). Work includes providing Ecology with a written analysis of how well the proposed source(s) meet(s) the criteria in the approved Work Plan at the end of the review period.
- B. EFMP Review: Review monitoring program proposed by the Port of Seattle. The monitoring plan must assess the potential impacts of imported fill such that if monitoring detects a rising trend in a particular analyte(s), Ecology will be able to determine incidences of non-compliance and require the Port to implement the appropriate corrective action.

High Level Scope of Work:

A. Fill Bid Package Review:

- Provide technical review of up to three fill bid packages for soil sources for the proposed Third Runway.
- Part of review process will include training of Ecology's contractor by Ecology on the Fill Sample Analysis Plan and training of Ecology's contractor by the Port on the Port bid specifications.
- Consultant will prepare and submit a written report within seven (7) calendar-days of receipt of bid packages analyzing how well the identified fill source complies with the Work Plan to Ecology's Third Runway Project Manager.
- On an on-call basis, the consultant will review alternate sources of fill proposed by the Port's selected contractor. Within ten (10) business-days of receipt of information on a newly identified source of fill, the consultant will submit a written report to Ecology

analyzing how well any alternate source of fill complies with the Work Plan to Ecology's Third Runway Project Manager.

B. EFMP Review:

- Attend meetings on EFMP with Port of Seattle and provide technical support to Ecology.
- Advise Ecology on ground water and surface water sampling analysis and on appropriate statistical methodologies for evaluating monitoring data.
- Prepare and submit a written report within ten (10) calendar-days of receipt of revised Draft EFMP which analyzes the Plan and make recommendations for plan improvement or modification to Ecology's Third Runway Project Manager.

Skills needed:

A. Fill Review:


- A strong background in construction bidding.
- Demonstrated experience in the areas of geology, MTCA stat, leaching tests specifically EPA method 1312, the Synthetic Precipitation Leaching Procedure. In addition, the consultant should be familiar with Phase 1 Environmental Site Assessments.
- Consultant cannot be providing services to the Port of Seattle related to the 3rd Runway expansion of the Seattle-Tacoma International Airport or to any party involved in the litigation pertaining to the project or have previously provided such services.

B. EFMP Review:

- Significant experience in projects pertaining to ground water and surface water quality monitoring and analysis, particularly *contaminated ground water flow and fate transport modeling*. A list of pertinent projects completed, including project objectives and results will be required.
- Must have a strong background and significant experience in surface and ground water statistical analysis (experience that consists of routine application of MTCA statistics will not be sufficient). Because of the nature of the work to be conducted for the EFMP, it is very important that the review team have senior-level applied experience.
- Must be experienced (have a working knowledge of) with the following:
 - a. Surface and ground water quality sampling and monitoring techniques and methodologies.
 - b. Surface water quality monitoring and data analysis consistent with WAC 173-201A-040.

- c. Choosing an appropriate statistical method for a given population of water quality parameters.
 - d. Determining dilution/attenuation factors and mass balance.
 - e. Statistical methods using (and constructing) control charts, time series plots, and trend analysis to determine statistically significant increases in analytes.
 - f. Constructing Shewart and CUSUM control charts and calculating screening levels, control limits, and tolerance limits.
- Consultant cannot be providing services to the Port of Seattle related to the 3rd Runway expansion of the Seattle-Tacoma International Airport or to any party involved in the litigation pertaining to the project or have previously provided such services.

Exhibit H

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Solicitation Number	102013
Solicitation Title	Third Runway - 2004-05 Embankment/S 154th St Construction
Status	Pending Award
Estimate	\$188,026,696
Closing Date	3/5/2004 2:00:00 PM

Company	Bid Amount
TTI Constructors, LLC	\$192,639,883.00
Kiewit Pacific Co.	\$201,978,755.00

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Attachment 7

Exhibit I



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March 8, 2004

\$192.6M low bid on 3rd runway job

By JOURNAL STAFF

SEATAC -- A new consortium is the apparent low bidder on a major earthwork project for Sea-Tac Airport's **third runway**.

TTI Constructors bid \$192.6 million. That's \$9.4 million less than the nearly \$202 million Kiewit Pacific bid.

TTI is a joint venture among Scarsella Brothers, Gary Merlino, and Tri-State construction companies. Scarsella controller Dave Purdy said the group formed to bid on this project, but may do future projects.

The Sea-Tac work entails clearing and grubbing 150 acres, excavating 3.3 million cubic yards of dirt, importing another 6 million cubic yards, and building an embankment.

Sea-Tac and state Department of Ecology officials must review the bid before officially awarding the job.

Runway foes are suing to stop construction, but airport officials are proceeding. "We are scheduling work for this year we think we can do according to the current law," airport spokesman Bob Parker said.

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Attachment 8

Exhibit J

Grad, Andrea E.

From: Kenny, Ann [AKEN461@ECY.WA.GOV]
Sent: Monday, December 01, 2003 3:02 PM
To: Fitzpatrick, Kevin; Drabek, John; Seeberger, Don
Cc: Hellwig, Raymond
Subject: Third Runway Water Quality Inspector

It's looking like this position will be necessary by March or April. Construction could begin in April.

In the meantime, the Port (Dave Jenkins) has indicated its desire to get some input from us on preliminary plans and specs for the master contract for the embankment and the mitigation sites, particularly the erosion and sedimentation control elements. (It sounds as though the specs are quite detailed and will address every little aspect of how each of the various pieces of the project will be constructed-so this input could be time consuming in the short-run but should pay-off in the long-term.)

They would like to get this feedback in the next month or two. Is it possible to identify a staff person to work on this? They will be able to charge their time to the Inter Local Agreement.

I can get more details on this if needed. Thanks.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

Attachment 9

Exhibit K



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

2425 Bristol Court SW 2nd Floor • Olympia WA 98502
Mailing Address: PO Box 40117 • Olympia WA 98504-0117
(360) 586-6770

March 24, 2004

Peter J. Eglick
Hclsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
P.O. Box 21846
Seattle, WA 98111

RE: *Port of Seattle v. Pollution Control Hearings Board, et al.*
Supreme Court No. 73419-4

Dear Mr. Eglick:

Thank you for your letter dated March 19, 2004, relating to the above-referenced case.

You have raised concerns that the Port of Seattle (Port) may use fill for constructing the third runway which does not meet the requirements set forth in the Pollution Control Hearings Board decision regarding the appeal of the Department of Ecology's (Ecology) 401 certification currently on appeal to the state Supreme Court. The concern you raise is not one I have had the opportunity to consider and I need additional time before providing you with the "definitive response" you requested before March 26. I will respond by April 9 on behalf of Ecology. This will provide sufficient time to discuss this issue with Ecology and to invite a response to your concerns from the Port.

Please call me if you have questions or want to discuss this matter further.

Sincerely,

DAVID K. MEARS
Senior Assistant Attorney General
(360) 586-6743

DKM:tmr

Exhibit L

HELSELL
FETTERMAN

A Limited Liability Partnership

March 29, 2004

Peter J. Eglick
Attorney At Law

Sent via FAX

Mr. David K. Mears
Assistant Attorney General
Ecology Division
P. O. Box 40117
Olympia, WA 98504-0117

Re: *Port of Seattle v. Pollution Control Hearings Board, et al.*; Supreme
Court No. 73419-4

Dear Mr. Mears:

This is to follow up on your letter dated March 24, 2004, which was received in this office by FAX at 5:20 p.m. on March 26, 2004, and on our subsequent telephone conversation on the morning of March 29, 2004.

As the public disclosure documents reflect, the Port is looking to Ecology for go-ahead approval for fill activity. Further, as DOE's Ann Kenny indicated in writing, such activities "could begin in April." April is, of course, a couple of days away. In light of the apparent imminence of execution of a bid contract and site work, time is of the essence and it is not possible to wait until April 9 to receive a definitive response from Ecology. At the same time, ACC appreciates your assurances that you are proceeding in good faith. ACC, like you, would like to resolve this matter short of a motion practice before the Supreme Court.

By the close of our conversation this morning, it appeared possible that you would be able to obtain the information necessary to respond to my March 19, 2004, letter sooner than April 9. To accommodate this and as a professional courtesy, we will look to hear from Ecology by Wednesday, March 31, 2004 (the last day before the commencement of April). A binding written assurance that construction will not commence and the status quo will not be altered until the Supreme Court has had an opportunity to issue a decision in the case will avoid the necessity to raise ACC's concerns with the Court.

In the event we are not able to reach such agreement, ACC reserves all rights, including in particular the right to request emergency relief from the Washington Supreme Court. To address that eventuality, we propose that your office agree to

Law Offices

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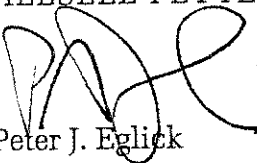
Mr. David K. Mears
March 29, 2004
Page 2

accept service of pleadings in the Supreme Court matter by e-mail, just as the Court accepts filing by e-mail. This will ensure that you receive the materials at the same that they are filed with the Court electronically. Regardless of what other information you may have, we would appreciate a response on this proposal at your earliest convenience, but by Wednesday at the latest.

Again, your response and our conversation today are very much appreciated. At the same time, the exigencies of the situation do not allow for delays in obtaining concrete written assurances.

Sincerely,

HELSELL FETTERMAN LLP

A handwritten signature in black ink, appearing to read 'PJE', is written over the typed name Peter J. Eglick.

Peter J. Eglick

PJE:rp

Grad, Andrea E.

From: Kenny, Ann [AKEN461@ECY.WA.GOV]
Sent: Monday, August 18, 2003 4:24 PM
To: 'Kordik, Robin'
Subject: FW: Scope of Work

Robin,

Please take a look at this proposed Scope of Work from Katie Walter. She's added a lower level biologist to do a lot of the review and oversight.

As she says in her letter there are a lot of unknowns about the project, therefore, it is difficult accurately develop the costs.

Give me ring once you've had a chance to look it over.

Thanks.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

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

From: Katie Walter [mailto:KLW@shanwil.com]
Sent: Monday, August 18, 2003 10:48 AM
To: Kenny, Ann
Subject: Re: Scope of Work

I put it in the mail on Friday, but noticed it didnt go out until today. I have attached an unsigned copy here, and sent a copy to Bev Heuther also.

Let me know if you need anything else.

By the way, did you get any answers on the ASDE questions I brought up after our meeting?

Thanks

Katie.

Katie Walter
Natural Resources Manager
(206) 695-6738
400 N. 34th Street Suite 100
Seattle WA 98103

>>> "Kenny, Ann" <AKEN461@ECY.WA.GOV> 08/18/03 10:36AM >>>

Katie,

Just checking in to see when I can expect the new scope of work for our contract amendment.

Ann E. Kenny

3/30/2004

Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

Exhibit M

August 15, 2003

Ms. Ann Kenny
Permit Assistance Center, Northwest Regional Office
Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

**RE: REVISED COST ESTIMATE FOR MEMORANDUM OF AGREEMENT
NO. C0100121 BETWEEN THE WASHINGTON STATE DEPARTMENT
OF ECOLOGY AND SHANNON & WILSON, INC.**

Dear Ann,

Shannon & Wilson Inc. has been reviewing the Natural Resource Mitigation Plan (NRMP) for the SeaTac Third Runway project for Department of Ecology. The revised budget for this project was \$91.652. As of August 31, 2003, our contract extension will expire. In our meeting May 14, 2003, we discussed the continuing additional needs for this project. Enclosed are the revised work plan and cost estimate to address the needs that are currently anticipated. This estimate includes time for work beginning in September through June 2005.

We have prepared the work plan and cost estimate based on our experience with this project and the anticipated needs for future assistance. However, we recognize that the actual budget and work items could differ considerably from those projected here, as it is not possible to accurately predict the level of effort that will be necessary for all of the tasks or even to predict all of the needs that may arise. For instance, the bulk of the time associated with this estimate includes approximately two days per week for 22 months for a Biologist III to conduct construction observation and review as-built plans. This task may require significantly more effort if construction difficulties are encountered. It is also likely that time expended will occur in concentrated blocks, and it will depend on the amount of the NRMP being implemented.

Additionally, because the 401 decision was appealed, depending on the appeal outcome, additional revisions to the NRMP may be required. This estimate includes a very limited amount of review time for potential revisions.

21-1-12020-001

Ms. Ann Kenny
Department of Ecology
August 15, 2003
Page 2

If you have any questions, you may call me at (206) 695- 6738.

Sincerely,

SHANNON & WILSON, INC.

Katie L. Walter
Natural Resources Manager

KLW:DNC/klw

Enclosure: Revised Work Plan

c: Bev Huether, Grants/Contract Coordinator, State of Washington Dept. of Ecology

REVISED WORK PLAN

- Review additional documents submitted associated with revisions to the NRMP.
 - Associate Biologist: 40 hours
 - Biologist III: 20 hours
 - Environmental Manager: 4 hours
- Coordinate review with Corps of Engineers when necessary, or as appropriate.
 - Associate Biologist: 10 hours
 - Biologist III: 20 hours
- Attend meetings with the Port of Seattle, Port consultants, and Ecology.
 - Associate Biologist: 40 hours
 - Biologist III: 40 hours
- Conduct limited construction observation & review "as-built" plans and field verify.
 - Associate Biologist: 400 hours
 - Biologist III: 1,400 hours
 - Environmental Manager: 20 hours
- Review requests for changes through the adaptive management process.
 - Associate Biologist: 50 hours
 - Biologist III: 50 hours
- Work with Parametrix to develop format for monitoring and resulting reports.
 - Associate Biologist: 20 hours
 - Biologist III: 40 hours
 - Environmental Manager: 4 hours
- Review monitoring plans required through the approved plans and check for adequacy.
 - Associate Biologist: 100 hours
 - Biologist III: 200 hours
 - Environmental Manager: 10 hours
- Review changes to the NRMP plan resulting from legal decisions and Corps permit.
 - Associate Biologist: 40 hours
 - Biologist III: 20 hours
 - Environmental Manager: 4 hours

COSTS

STAFF	HOURS	RATE	SUBTOTAL
Environmental Manager	42	\$165	\$6,930
Associate Biologist	700	\$125	\$87,500
Biologist III	1,790	\$75	\$134,250
Expenses			\$5,000
TOTAL			\$233,680

Exhibit N

Grad, Andrea E.

From: Kordik, Robin [kordik.r@portseattle.org]
Sent: Wednesday, August 27, 2003 3:26 PM
To: Kenny, Ann; aken461@ecy.wa.gov
Cc: Jim Kelley (E-mail); jckelley@parametrix.com
Subject: REVISED WORK PLAN

<<Shannon and Wilson Port Revised Work Plan.doc>>

Welcome Back Ann:

When you get a chance to review our suggested changes, please call me to discuss. I paid particular attention to the June '05 timeline, and deleted tasks that are not activated until after that deadline. I sympathize with Katie's dilemma about how to forecast demand for services, so you will see some suggested hours as contingency for unplanned events.

I cc'd Jim kelley so he knows what we expect of PMX during the forthcoming year and a half (thru 06-05)

Hope your reentry to work is without difficulty. So far, the aviation environmental group has survived the new budget cuts announced today. It is truly Black Wednesday here today. The Airport is reorganizing and \$4.5million in STAFF cuts go into affect this fall. Today the airport reorg was announced eliminating whole departments. Each of the affected positions is scheduled for a meeting regarding position changes and salary reductions or position elimination. The mood is very somber. These cuts are over and above the frozen salaries and higher medical, parking and other fees applied to remaining personnel. In addition, there are \$ 2 million in non personnel cuts to be implemented too. New initiatives and programs are being eliminated, and environmental regulations are the only budget changes allowed. Unfortunately, the message to all employees at the mandatory meeting sounded like the cost increases are the fault of environmental cost increases, and that people are losing their jobs or programs because of it.

If it looks like I'm obsessing over costs both now and in the future, try to remember what we are going thru today. Our culture is changing and it will undoubtedly affect how you and I approach future challenges.

gloomily yours,
Robin

PORT COMMENTS

REVISED WORK PLAN

- Review additional documents submitted associated with revisions to the NRMP.
 - Associate Biologist: 8 hours
This item is a small workload Jim owes Katie a new plan sheet for wetland 9 and some small minor changes that will take about one hour to review, and perhaps some follow up phone calls, She also needs to check all the boxes in the matrix provided for Ecology approval.
- Coordinate review with Corps of Engineers when necessary, or as appropriate.
 - Associate Biologist: 10 hours
- Attend meetings with the Port of Seattle, Port consultants, and Ecology. 0 hours
*This item is covered in other bullets, therefore **no hours** are necessary.*
- Conduct limited construction observation & review “as-built” plans and field verify.
This task will not be activated in the June 05 timeframe unless there are in -field design changes requiring construction oversight. Note that the permit calls for PMX to provide bulk of construction oversight....neither Auburn nor upper and lower Miller Creek will be complete by June 05, therefore there will be no as-builts to review. I have included 100 total hours as a CONTINGENCY for design changes during construction. This task is therefore an “on-call” task, to be activated IF NECESSARY.
 - Associate Biologist: 40 hours
 - Biologist III: 40 hours
 - Environmental Manager: 20 hours
- Review requests for changes through the adaptive management process.
This task is not activated until construction is completed and an adequate number of post-construction field reports indicate that something needs to be changed. Since this contract ends June 05, there is no need to budget \$ in this task.
 - Associate Biologist: 0 hours
 - Biologist III: 0 hours
- Work with Parametrix to develop format for monitoring and resulting reports.
This is a one time only task, to support Ecology's permit manager and wetland specialist (Eric) It probably requires a senior level Ecology review, to ensure consistency in reporting over the next 5-7 years of construction and the 15 years of post-construction monitoring. Performance standards have been set in the NRMP and the only remaining review is that of format. Two years of baseline data and an initial trends analysis has been prepared and submitted to Ecology for review and comment. We are most interested in Ecology's review of methodology inherent in the reports. The methodology for all monitoring reports will be documented by PMX in a procedures manual that will govern our sampling and monitoring procedures for the duration of the permit requirements.
 - Associate Biologist: 16 hours
 - Biologist III: 0 hours
 - Environmental Manager: 0 hours
- Review monitoring plans required through the approved plans and check for adequacy.
*Support for this task is calculated as follows: The monitoring reports display data collected by data loggers and in-field sampling of 130 locations. The review of these reports may take up to 4 hours per month times 21 months (thru June 05) or 84 hours of a biologist 111 position. The more senior Associate Biologist **may** need ladditional hour per month to review the Biologist 111 review, and sign any necessary correspondence to Ecology. We believe that an email may suffice for this correspondence.*
 - Associate Biologist: 21 hours
 - Biologist III: 84 hours
 - Environmental Manager: 0 hours
- Review changes to the NRMP plan resulting from legal decisions and Corps permit.

This task is now limited to any legal changes from the State Supreme Court. ACOE and the 404 permit have been upheld. This task is also a contingency task, when the court rules in our favor, there is no work to do.

- Associate Biologist:40 hours
- Biologist III:0 hours
- Environmental Manager:4 hours

▪ Costs

STAFF	HOURS	RATE	SUBTOTAL
Environmental Manager	24	\$165	\$3,960
Associate Biologist	135	\$125	\$16,875
Biologist III	124	\$75	\$9,300
Expenses			\$5,000
TOTAL			\$35,135

Exhibit O

Grad, Andrea E.

From: Kenny, Ann [AKEN461@ECY.WA.GOV]
Sent: Tuesday, November 04, 2003 2:58 PM
To: 'Kordik, Robin'
Subject: RE: Revised Scope of Work for Shannon and Wilson

Great. I didn't include any of the past due costs for Shannon and Wilson in the revised scope of work (which I will probably have to do since I need to go back to July 1, 2003. They would be added to task one-NRMP review.)

The costs you see are based on finishing up NRMP work which can happen shortly after we get the new contract signed and on the assumption that construction oversight will be necessary beginning April of 2004.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

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

From: Kordik, Robin [mailto:kordik.r@portseattle.org]
Sent: Tuesday, November 04, 2003 12:25 PM
To: Kenny, Ann
Subject: RE: Revised Scope of Work for Shannon and Wilson

go ahead and bill the ILA for the 03 invoices., I'll get back to you soon (tomorrow I meet with Elizabeth for my regular one on one, bi-weekly review) on the latest scope of new work. Dates look good, we only need to get agreement on the amount of the new work. Thanks for working on this.

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

From: Kenny, Ann [mailto:AKEN461@ECY.WA.GOV]
Sent: Monday, November 03, 2003 4:48 PM
To: Kordik, Robin
Cc: Tyler, Zach; Hellwig, Raymond
Subject: Revised Scope of Work for Shannon and Wilson

Robin,

Here's a new version of the scope of work. I trimmed \$31,160 off of my last version-still \$45,240 more than your last version and down by \$153,305 from the original estimate. Are we getting closer???

Right now we are planning to write this contract to cover the time period from when Ecology's contract with the Port to pay the Shannon and Wilson invoices expired: June 30, 2003. I assumed that the ILA would pick up these costs once this contract expired. Is this correct or do we need to do an amendment to the original contract? [Our budget people are ok with billing the ILA since we clearly identify wetland review in the scope of work. However, I do need to get a new payable agreement in place with Shannon and Wilson.]

3/30/2004

Here is the information I have on the Shannon and Wilson invoices.

6/29/03 to 7/12/03: \$3,169.62
7/13/03 to 8/16/03: \$5,566.57
8/17/03 to 9/13/03: \$2,259.75
9/13/03 to 10/11/03: \$555.56 (This is the most recent invoice.)

I am writing the new contract with Shannon and Wilson to go back to July 1, 2003 and will have it extend through June 30, 2005.

Let me know what you think.

Thanks.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

Exhibit P

Grad, Andrea E.

From: Kenny, Ann [AKEN461@ECY.WA.GOV]
Sent: Tuesday, June 10, 2003 12:53 PM
To: Fitzpatrick, Kevin; Hellwig, Raymond; Drabek, John; Abbasi, Ed
Subject: FW: RFQ Material for Ecology/POS Interlocal Agreement; Request for Meeting
Importance: High

Kevin, John, Ed and Ray:

I am forwarding the attached RFQ documents to you so that you can get an idea of the kind of technical resources we will need to allocate to continuing review of the Comprehensive Stormwater Management Plan for the Seattle-Tacoma International Airport as governed by the requirement in the 401 water quality certification.

The Port has already hired consulting teams to perform the tasks in the above documents. As you may recall I tried to set up a meeting in April to discuss staffing needs but we postponed it so as not to get this meeting caught up in the 402 renewal process.

The Port is requesting a meeting with us sometime this month to discuss how to accomplish review and approval of proposed revisions to the CSMP. As you may also recall we required in the 401 Certification that any changes to the CSMP be reviewed and receive written approval. The Port is actively reviewing the assumptions of the CSMP (HSPF assumptions, infiltration rates, etc.) in order to refine the sizing of the stormwater vaults, etc.

The Port wants to update us on the following work they are now doing:

- Flow control optimization and modeling review
- Early actions
- Facility Assessment
- Water Quality Characterization and Data Gap Analysis
- Low Flow Pilot Test
- SSA Work Plan

They also want to update us on their critical pathways. As I understand it, the Port will be working fast and furiously this summer and into the fall in order to prepare bid documents that will be released in December. The Port (hoping to prevail on the legal issues before the Supreme Court) is hoping to be able to begin construction of the Third Runway in March or April. This means that they want input from us this summer and fall as they revise the various elements of the CSMP.

All this feeds into the discussions we have been having internally on FTEs and resources. Attached is a revised DRAFT workload analysis for the Inter-Local Agreement we have with the Port. It expires at the end of this month and I am in the process of amending it to extend it for another two years and to update the workload analysis. It is open for discussion. I'm assuming that the WQ Program wants the ES4 position (1 full FTE) for the water quality inspector.

I am less certain how you want to handle the Stormwater Engineer (EE3) review responsibilities. We no longer have Kelly Whiting available to us. Therefore, we need to make a decision as to whether this function will be managed by existing Ecology staff or contracted out. I do expect to have a need for some HSPF modeling expertise since the Port is looking at the model again. I am also concerned that

3/30/2004

we continue to have adequate capacity to cover all of the 402 workload issues that interconnect with changes to the CSMP under the 401 and with any court decisions made on the 401 (WERS). The last time I met with the Port I asked whether they would be interesting in paying for more dedicated 402 time via the Inter-Local Agreement. They indicated that they were. I think it is important that we continue to have capacity in the next several years to actively address 402 issues as they arise. I understand from talking about this with John Drabek that Ed officially has only 20 percent of his time dedicated to the POS 402. John also indicated a desire to get Ed's Port 402 workload back down to only 20% (instead of the near 100% that it has been). One way to handle this need would be to have the Port fund .5 FTE for 401 CSMP review and .5 FTE for 402 oversight/implementation. This combined FTE could be filled internally by Ed, we could hire someone new, or we could contract it all out (with oversight from Ed on the 402 issues).

Please let me know your availability for a meeting sometime in the next two weeks and please let me know if you have any specific thoughts or concerns in the meantime.

Thanks.

Ann E. Kenny
Senior Regional Planner
Washington Dept. of Ecology/NWRO
425-649-7128

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

From: Kordik, Robin [mailto:kordik.r@portseattle.org]
Sent: Friday, May 02, 2003 3:05 PM
To: Kenny, Ann
Subject: FW: RFQ Material for Ecology

> -----Original Message-----

> From: York, Bob
> Sent: Friday, March 28, 2003 1:48 PM
> To: Kordik, Robin; Duffner, Bob
> Cc: England, George
> Subject: RFQ Material for Ecology

>

> Robin/Bob:

>

> Ann Kenny requested some information from us on RFQ for assistance in reviewing submittals from the Port on the CSMP. Here is some raw information that she can use. Obviously, someone will need to edit this info and put it in Ecology format.

>

> Bob

>

>> <<CSMP_Prospectus for Ecology.doc>>

>

>> <<Final ATTACHMENT A-1.doc>> >> <<Final ATTACHMENT A-2.doc>>