

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 REPLY IN SUPPORT
OF ITS EMERGENCY MOTION FOR INJUNCTIVE RELIEF
PURSUANT TO RAP 8.3**

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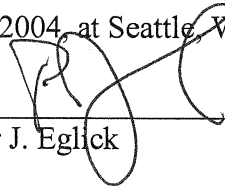
Peter J. Eglick declares as follows:

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. Attached to this Declaration as Exhibit A is a true and correct copy of an article dated April 9, 2004, from the Seattle Post-Intelligencer's online edition (http://seattlepi.nwsourc.com/local/168393_runway09.html) entitled, "Runway Injunction Sought," in which the Port of Seattle's Aviation Director Gina Marie Lindsey indicates that the Port hopes to start work in May or June, and that that work includes rechanneling Miller Creek. She also represented that the Port was relying on SSB 5787 -- whose merits are under review by this Court -- as authority for performing such work before the Court renders a decision. Ex. A at p. 2.

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

DATED this 9 day of April, 2004, at Seattle, Washington.



Peter J. Eglick

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Friday, April 9, 2004

Runway injunction sought
Group doesn't want work to resume until environmental issues are resolved

By LARRY LANGE
SEATTLE POST-INTELLIGENCER REPORTER

Opponents of an embattled Sea-Tac runway project have asked the state's highest court to stop a move to resume construction, saying long-standing environmental issues should be resolved first.

The Airport Communities Coalition has asked the justices for an injunction to halt work, which the port was preparing to resume within weeks.

The Port of Seattle, the airport's owner, said a recently passed law allowing a controversial fill-contamination test allows it to proceed with some of the work this spring even before the court rules on the legality of the law and other runway environmental issues.

The port accepted bids on the importing and placement of about 8 million cubic yards of fill to add to the runway. Opponents also said they saw internal state Ecology Department documents indicating that the work might begin in a matter of weeks, perhaps before a court ruling on other runway issues. Ecology must approve sources of the fill before work can proceed.

Opponents asked the Ecology Department last month for assurances that work wouldn't begin until the high court ruled, but requested an injunction after the agency didn't respond as soon as opponents wanted. They said they wanted to halt placement of fill until the court ruled on environmental issues and before new fill damages creeks and wetlands. Some fill is already on-site.

Opponents have said the port is preparing the work in order to make the runway a *fait-accomplie*, despite the pending court case.

"It takes a special kind of nerve to pre-empt a Supreme Court decision," said coalition attorney Peter Eglick. One Ecology Department e-mail

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obtained by the coalition said construction could resume in April.

The port and the Ecology Department oppose the injunction. Ecology leaders said their agency is reviewing the eight fill sites to be used by the contractor and hasn't approved the work yet.

Port Aviation Director Gina Marie Lindsey said a 2003 law, approving a controversial fill-contamination test, will allow the work to be done while the court considers other issues brought by runway opponents. She said the port has received bids to add 6 million cubic yards of embankment material, rechannel Miller Creek and begin mitigation work, and hopes to start in May or June.

She said waiting for the court to rule on the other issues could delay the work another year, in which case "we're out another \$25 million" added to the \$1.1 billion cost.

There was no indication yesterday when the Supreme Court would rule on the opponents' injunction request.

The port wants to build the third runway as a way to allow multiple lines of jets to land at Sea-Tac during bad weather. It has spent more than \$373 million on the project.

Opponents have said that new navigation technology makes the runway unnecessary, and that filling areas west of the airport and adding new drainage systems will destroy creeks, wetlands and possibly the area's underground water supply.

P-I reporter Larry Lange can be reached at 206-448-8313 or larrylange@seattlepi.com

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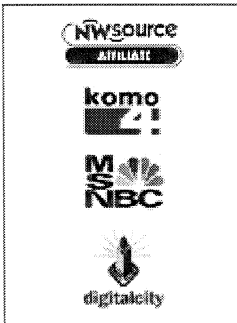
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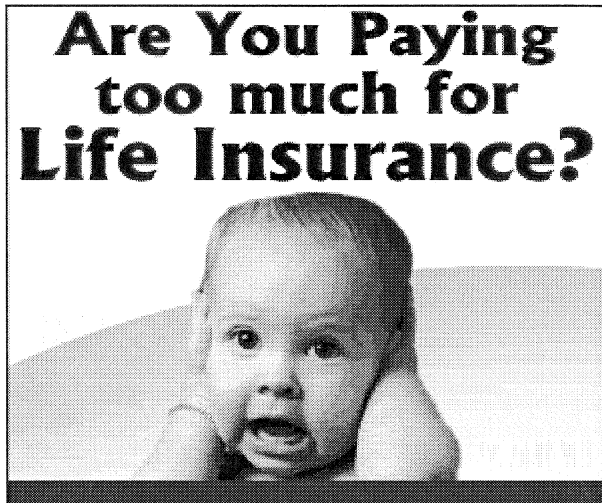
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