

August 12, 2002

Chronology of Section 401 permit, Second Application

29 September 1999. The Port submitted its second application to the U.S. Army Corps of Engineers and to the Department of Ecology, after having to withdraw its 1997 application because of gross under-statement of the amount of wetlands involved. Ecology had 365 days to pass on the application. The Engineers had previously announced that they would not decide till after Ecology had finished its work.

Spring & Summer 2000. Port of Seattle submitted voluminous revised documents, attempting to justify the plan, some as late as late August. Ecology, Engineers, and King County stormwater experts, as well as experts retained by Airport Communities Coalition, RCAA, and C.A.S.E., raised a host of questions.

28 September 2000. A meeting—not publicly announced—was held at the office of M.R. ("Mic") Dinsmore, Executive Director of the Port of Seattle. Those present included: Joe Dear, the Governor's Chief of Staff; Mr Dinsmore; Tom Fitzsimmons, the Director of the Department of Ecology; Ray Hellwig, head of the regional office of Ecology; and others. Mr Dinsmore was a major fund-raiser for Gov. Gary Locke in the last general election. The Governor and Ecology have denied that there is any political pressure in this affair, though Ecology has been officially warned that there is interest in this project "at the highest levels" of State government. The Ecology folks brought with them their draft letter of decision on the sec. 401 application, dated that day, and shared it with the others. The letter flatly denied the application, because of multiple shortcomings. "At this time, Ecology does not have reasonable assurance the proposed project will comply with the applicable federal and state water quality requirements" The letter referred questions to Ecology staffer Tom Luster. The letter acknowledged that the Port intended to resubmit, and pledged to "work with" the Port, and to "provide guidance to the applicant to help develop documents with the necessary level of detail and information for our

review."

What else happened next at that meeting is not known. However on that same day (28 September), the Port announced that it was withdrawing its applications under sec. 401 and sec. 404 of the federal Clean Water Act. In a letter dated that day to the U.S. Army Corps of Engineers, the Port wrote that it was withdrawing "solely for a technical reason, i.e., to grant Ecology additional time to complete its review". In fact, the Port withdrew because Ecology was poised to deny the application. Also on 28 September, the Port issued a news release stating it would resubmit in two weeks and asserting that the new application would sail through to approval in a very few weeks, by December at the latest. Curt Hart, public-relations man at the Bellevue office of Ecology, said in a prepared statement that the Port was "on the right track, conceptually". Mr Fitzsimmons issued a letter dated that day to Mr Dinsmore, in response to the withdrawal, saying that there was not "adequate time to properly review ... remaining project related issues", but he was "confident" that Ecology would approve a renewed application. At the meeting in Mr Dinsmore's office, the tentative timetable was, a third application filed on 16 October, and a cut-off of public comment by 30 November, with a decision in mid-December.

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After the application was withdrawn, and while no new application was pending, there were "negotiations" under the chairmanship of a "facilitator" (Ms Kate Snyder) from the firm of Floyd & Snyder, Inc. Putting a "facilitator" in charge was one of the items discussed at the private 28 September meeting.

E-mail-traffic shows the following.

2 October. Meeting of Port, "facilitator", and Ecology, to negotiate.

6 October. Ditto

10 October. Ditto. Two persons present from King County, and six consultants, as well as Port and Ecology folks.

13 October. Another "negotiating" meeting.

13 October. Curt Hart, the PR man, e-mailed an East-Coast journalist that "we hope to have the permit issue resolved by mid-December", and that the Port would not be required to start over from scratch.

20 October. More "negotiating".

24 October. Technical stormwater plan status

conference (limited attendance, excluding Ecology)

DATE Ecology's Ray Hellwig wrote to RCAA that there would be a new public notice and a new public hearing

27 October. All-day conference at Ecology's Bellevue office

31 October. Another all-day meeting at Ecology.

None of these eight meetings in October were announced publicly and no-one representing outside parties was present. The public would not know that they occurred but for persistent requests for disclosure of public records by ACC.

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26 October. The Port filed portions of a new application, announces the filing to the news media.

During October. The Corps of Engineers reviewed the submission for Ecology.

3 November. Ecology started to withhold documents sought by public disclosure on the grounds that they are deliberative documents.

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