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BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

THE PORT OF SEATTLE,

Appellant,

v.

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY,

Respondent.

No. PCHB 07-028

DECLARATION OF
MEGAN J. WHITE, P.E.
IN SUPPORT OF WSDOT'S
PETITION TO INTERVENE

MEGAN J. WHITE declares as follows:

1. I am the Director of the Environmental Services Office, Washington State Department of Transportation (WSDOT). I make this declaration based on personal knowledge, or based on facts disclosed by public documents.

2. I am a licensed professional engineer registered in the State of Washington to practice civil engineering. I have a Masters of Science Degree in Civil and Environmental Engineering from Utah State University and a Bachelor of Science Degree in Natural Resources from Humboldt State University. I have 23 years of work experience in the field of water quality and stormwater management, including 19 years at the Washington State Department of Ecology where from 1997 to 2003 I managed their state-wide program to

1 protect and restore clean water. This work included permitting discharges to water and
2 controlling polluted runoff.

3 3. WSDOT's storm drainage systems are regulated under the Clean Water Act
4 NPDES permit program because they meet the definition of a *Municipal Separate Storm Sewer*
5 *System*. The Environmental Services Office that I have managed since 2003 is responsible for
6 the general municipal stormwater permit issued to WSDOT under the federal Clean Water Act
7 and the Washington Water Pollution Control Act. The office is also responsible for overall
8 permit compliance and coordinating program implementation required by existing stormwater
9 permits including construction stormwater pollution prevention, stormwater management for
10 new and existing facilities, inspection and maintenance of stormwater facilities, stormwater-
11 related research and monitoring, education and training of WSDOT staff and consultants, and
12 program assessment and reporting.
13

14 4. I am familiar with and have reviewed the Phase I Municipal Stormwater Permit
15 issued by the State of Washington Department of Ecology (Ecology) on January 17, 2007
16 (Permit). The Permit constitutes the National Pollutant Discharge Elimination System and
17 State Waste Discharge General Permit for discharges from Large and Medium Separate Storm
18 Sewer Systems under state and federal authorities. The Permit identifies the cities of Seattle
19 and Tacoma and the counties of Clark, King, Pierce and Snohomish as Permittees, and the
20 Ports of Seattle and Tacoma as Secondary Permittees under its coverage.
21

22 5. WSDOT was a named permittee under the previously issued Phase I Municipal
23 Stormwater Permit. WSDOT has since applied for and is working with Ecology on
24 development of its own Municipal Stormwater Permit. This permit was initially scheduled for
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1 issuance concurrently with issuance of the permit being appealed but has been postponed.
2 According to Ecology, the WSDOT Municipal Permit will undoubtedly contain many
3 provisions substantially similar or even identical with the Permit being herein appealed. The
4 decisions in these appeals will set specific standards for discharges of stormwater into waters
5 of the state that WSDOT expects will be similarly applied when Ecology issues WSDOT's
6 Municipal Permit. Consequently, although WSDOT is not a named permittee under the permit
7 at issue, the permit that eventually results from these appeals will substantially and directly
8 shape the permit Ecology eventually issues to WSDOT and, therefore, will materially affect
9 the construction, operation, and maintenance of WSDOT's storm drainage systems statewide.
10

11 6. It is my understanding that The Port of Seattle has filed an appeal with the
12 Pollution Control Hearings Board in regard to a number of provisions in the Permit issued by
13 Respondent Ecology, including the application of specified standards to the discharges of
14 stormwater into waters of the state that WSDOT expects will be applicable to its discharges
15 upon Ecology's issuance of the WSDOT NPDES Municipal Stormwater Permit. In this
16 respect, WSDOT's interest will not be adequately represented by the existing parties to this
17 appeal due to a number of circumstances or characteristics that are particular to WSDOT
18 facilities, operations, and approaches to addressing compliance under these Permit provisions.
19

20 7. First, it is inefficient, and in some instances ineffective, for WSDOT to attempt
21 to emulate how local jurisdictions manage runoff from urban land uses as its highway facilities
22 are linear in nature and, as such, are faced with practical limitations in terms of locating and
23 maintaining stormwater treatment facilities within state owned right-of-way.
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1 (a) Site-specific factors often making infeasible the construction of stormwater
2 facilities adjacent to the highway or within the right-of-way include: 1) geographic
3 and geotechnical limitations (e.g., topography/steep slopes, proximity to wetlands
4 and water bodies), 2) hydraulic limitations (e.g., lack of hydraulic head, high
5 groundwater), 3) environmental and health-risk limitations (e.g., critical habitat for
6 ESA listed species, floodplain, contaminated soils), and 4) existing utilities and
7 development
8

9 (b) WSDOT needs an approach for managing stormwater that recognizes the
10 differences in climate, soils, and adjacent land uses in eastern and western
11 Washington.
12

13 (c) WSDOT's highway facilities often cross jurisdictional boundaries and drainage
14 basins.
15

16 (d) WSDOT's stormwater system drains to a great variety of receiving waters.

17 8. Second, WSDOT's approach to addressing compliance Permit provisions will
18 differ in some manner from that of the other parties as WSDOT has:

19 (a) A set of programs, staffing, and funding levels for addressing the various
20 programmatic requirements of the Permit tailored to the demands, needs, and
21 physical characteristics of WSDOT's facilities and operations;

22 (b) A water quality monitoring program tailored specifically to WSDOT's activities,
23 projects, facilities, operations and pollutants of concern; and

24 (c) A set of programs, policies, procedures, and expertise in promoting compliance
25 with stormwater management best management practices for WSDOT facilities
26

1 In addition, most of WSDOT's highways and facilities were built before the federal
2 Clean Water Act and the Washington Water Pollution Control Act were enacted.

3 9. Third, WSDOT's management of stormwater runoff from transportation
4 infrastructure is uniquely governed by the Puget Sound Highway Runoff Program
5 (Chapter 173-270 WAC). This regulation established the basis for the management of
6 stormwater runoff from transportation infrastructure to protect water quality in the Puget
7 Sound basin.

8
9 10. Fourth, in making decisions regarding actions required by stormwater permit
10 provisions, WSDOT needs to follow an approach that ensures it does not circumvent the
11 Legislature's authority to determine where to invest financial resources. Thus, the state's vital
12 interests in protecting and restoring clean water need to be integrated with the other vital
13 interests committed to the WSDOT, including the cost-effective delivery and operation of
14 transportation systems and services that meet public needs.

15
16 11. Finally, the Department of Ecology, as issuer of the Permit, and as a regulator,
17 has interests that are inherently different and distinct from WSDOT's interests as a Permittee
18 regulated under the Permit.

19 I swear under penalty of perjury under the laws of Washington State that the foregoing
20 is true and correct to the best of my knowledge.

21 Dated this 5th day of April, 2007 at Olympia, Washington.

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23 
24 _____
25 Megan J. White, P.E.
26 Environmental Services Director, Washington
State Department of Transportation