MEMORANDUM OF UNDERSTANDING BETWEEN THE WASHINGTON STATE DEPARTMENTS OF ECOLOGY AND TRANSPORTATION REGARDING ENVIRONMENTAL ISSUES UNDER DEPARTMENT OF ECOLOGY JURISDICTION

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I. PURPOSE AND SCOPE

Numerous federal and state laws, regulations and policies affect the Department of Transportation (DOT) in its application for permits, and the Department of Ecology (Ecology) in its review and evaluation of permit applications. This requires coordination of technical and environmental information between the two agencies to provide for a timely and efficient review of environmental documents and permit applications. The purpose of this Memorandum of Understanding is to describe procedures DOT and Ecology will use to enhance coordination and cooperation.

Authority is hereby granted to Ecology Program Managers and the DOT State Project Development Engineer to develop and execute program specific implementing agreements. These implementing agreements will become supplements to this Memorandum of Understanding.

II. BACKGROUND

DOT frequently requests advance comments and counsel of Ecology during early project development to mitigate concerns with the project.

A. DEPARTMENT OF TRANSPORTATION

DOT has the responsibility to construct and operate safe transportation facilities that comply with federal and state laws, regulations, and policies. In administering this program, DOT may coordinate with Ecology in the following program areas:

1. Shorelines and Coastal Zone Management

   a. Proposed development or non-exempt maintenance activity within any "shoreline of the state", as defined in chapter 90.58 RCW.

   b. Exploratory drilling for preliminary soils information within any "shoreline of the state", as defined in chapter 90.58 RCW.

   c. Wetland inventories and management procedures.

2. Solid and Hazardous Waste Program

   a. Hazardous waste surveys and management plans for proposed projects.

b. Hazardous waste treatment and clean up approvals for any late discovery during construction.

3. Noise Program

a. Local noise ordinances adopted pursuant to Chapter 173-60 WAC affecting DOT construction or maintenance activities.

4. Water Quality

a. Approvals for short term modification of water quality standards for applicable DOT projects.

b. Water Pollution control plans where waters of the state may be impacted by DOT construction projects.

c. Highway Runoff Control Program for the Puget Sound Basin as outlined by the Puget Sound Water Quality Management Plan.

5. Air Quality

a. Applicable state and local air pollution control authority regulations.

b. Applicable federal and state regulations for projects involving asbestos.

B. DEPARTMENT OF ECOLOGY

Ecology administers state laws and delegated federal programs including those related to shoreline management, water pollution control, air quality, solid and hazardous waste, and noise control. In administering these laws and programs, Ecology:

1. Develops regulations and reviews and/or approves permits in association with local government for proposed development and uses in areas subject to the Shoreline Management Act.

2. Develops regulations for the treatment, storage and disposal of hazardous materials, approves hazardous waste management plans, and conducts or participates in planning remedial actions at hazardous waste sites.

3. Conducts water quality compliance assurance activities, including reviewing DOT Water Pollution Control Plans, issuing discharge permits, issuing short term modification to water quality standards and conducting inspections and enforcement actions.

4. Administers a stormwater program consistent with the Puget Sound Water Quality Management Plan and federal and state water quality regulations.

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5. Administers a statewide air quality program with delegation in some areas to local authorities and establishes minimum air quality standards.

III. PROVISIONS

Because both agencies are involved with development of shorelines and coastal zone management, solid and hazardous waste, hazardous materials, water quality, air quality, and noise; Ecology in administering laws, regulations and policies and DOT in accomplishing transportation projects agree to the following:

A. THE DEPARTMENT OF TRANSPORTATION SHALL, WHERE APPROPRIATE;

1. Consult with Ecology seeking advice, and concurrence on project proposals in program areas where Ecology has permit or approval authority.

2. Educate project inspectors to be aware of Ecology's areas of regulation and enforcement.

3. Participate with Ecology personnel in a cooperative review of DOT project design or contracts.

4. Immediately investigate any permit violation identified by Ecology.

5. Actively participate with Ecology in developing program specific implementing agreements as supplements to this Memorandum of Understanding.

B. THE DEPARTMENT OF ECOLOGY SHALL:

1. Actively participate and identify concerns during the SEPA environmental review process.

2. Participate in a cooperative review of DOT project proposals or contracts.

3. Establish a central contact person for each program area for clarifying regulations, policies and procedures.

4. Actively participate with DOT in developing program specific implementing agreements as supplements to this Memorandum of Understanding.

C. JOINTLY, DOT AND ECOLOGY SHALL:

1. To the extent practicable, develop specific procedures to be included in the program implementing agreements under C 4.

2. Develop program specific early notification procedures for identifying problems, permit violations or potential violations on DOT contracts consistent with Ecology regulations and procedures.

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3. Resolve conflicts at the field level. In the event that issues cannot be agreed upon by field personnel, both parties agree to elevate the issues to equivalent levels within each organization, for further discussion and, if necessary, to the Director of Ecology and Secretary of DOT.

4. Develop and execute implementing agreements for program specific areas, including but not limited to:

   - Administration of the State Environmental Policy Act;
   - Administration of the Shoreline Management Act;
   - Federal and State interagency coordination of Corps of Engineers' permits involving wetland impacts;
   - DOT hazardous waste procedures and management plans, including disposal of hazardous materials;
   - DOT bridge painting projects over waters of the state;
   - Clarification of respective departmental roles and responsibilities related to sewage/sludge from DOT facilities and activities;
   - DOT's review of proposed local agency noise ordinances;
   - Implementing provisions of the Puget Sound Water Quality Management Plan affecting Ecology and DOT;
   - Exploratory drilling for preliminary soils information within shorelines of the state;
   - Modification of the current procedure for water pollution control plans as necessary;
   - Compliance with applicable state air quality regulations;
   - Other areas as necessary and agreed to by Ecology and DOT.

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This Memorandum of Understanding shall be effective when signed by both parties and may be terminated upon 30 days written notice by either party. This Understanding may be amended or supplemented with program specific implementing agreements by mutual consent of both parties.

Dated this 4th day of August, 1988

Duane Berentson, Secretary
Department of Transportation

Christine Gregoire, Director
Department of Ecology

APPROVED AS TO FORM:

Assistant Attorney General

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Assistant Attorney General

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