



## King County

### Water and Land Resources Division

Department of Natural Resources and Parks

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July 26, 2016

TO: Scott Smith, Principal Engineer, Department of Permitting and Environmental Review (DPER)

FM: Curt W. Crawford, Manager, Stormwater Services Section, Water and Land Resources (WLR) Division, Department of Natural Resources and Parks

RE: Blanket Adjustment #1 for King County International Airport Regarding Definition of "Site," Alternative Declaration of Covenant and Grant of Easement, Direct Discharge, and Flow Control BMP Requirements

### **Background**

King County International Airport (KCIA) experiences repeated surface water drainage manual adjustment requests for the same drainage issues proposed by KCIA and their tenants. A blanket adjustment that addresses these common requests will serve the public interest by reducing permit times and costs, while achieving required environmental protection and compliance with the Surface Water Design Manual (SWDM).

### **List of Specific Adjustment Items and Discussion**

1. Use the 2016 SWDM definition (Chapter 1, Key Terms) of "site" for application of requirements for development proposals vested to earlier versions of the SWDM.

### **Findings/Justification**

Earlier versions of the SWDM defined "site" in a manner that treated the entire airport "parcel" as the "site," which resulted in individual leaseholds being required to take actions or having requirements based on areas outside of their leasehold and scope of control. The main airport parcel (282404-9007) constitutes approximately 92 percent of the 600 airport acres and contains approximately 150 tenants and 40+ separate leaseholds. Tenant leaseholds have no control of the remaining parcel and do not own the property that they occupy. The "site" definition has been updated in the 2016 SWDM to address leaseholds (see underlined portion of definition) as follows: "*means a single parcel; or, two or more contiguous parcels that are under common ownership or documented legal control; or a portion of a single parcel under documented legal control separate from the remaining parcel, used as a single parcel for a proposed project for purposes of applying for authority from King County to*

*carry out a proposed project. For projects located primarily within dedicated rights-of-way, the length of the project site and the right-of-way boundaries define the site.”*

### **Conditions of Approval**

KCIA projects vested under the 2009 SWDM must use/adopt the revised 2016 SWDM site definition completely and consistently for application of the 2009 manual’s requirements.

2. For development/redevelopment projects located at KCIA, eliminate the requirement to implement flow control best management practices (BMPs) to cited minimum levels for individual lots as described in the 2009 and 2016 SWDMs. These minimum levels are specified in 2009 SWDM requirement #3 of Section 5.2.1.1, “Small Lot BMP Requirements,” 2009 SWDM requirement #2 of Section 5.2.1.3, “Large Lot High Impervious BMP Requirements,” 2016 SWDM requirement #5 of Section 1.2.9.2.1, “Small Lot BMP Requirements,” and 2016 SWDM requirement #5 of Section 1.2.9.2.2, “Large Lot BMP Requirements.”

### **Findings/Justification**

The 2009 SWDM requires flow control BMPs be applied to a project’s targeted surfaces based on the project’s size and impervious coverage. These minimum BMP implementation levels were intended to capture “practicable” levels of BMPs, which have been found to be difficult to achieve at KCIA given its unique function and highly impervious footprint.

The 2016 SWDM requires flow control BMPs be applied to an urban located project’s targeted surfaces to the “maximum extent feasible” while also requiring the same 2009 SWDM minimum BMP implementation levels be achieved. Where standard infiltrative BMPs are not feasible and cannot achieve the required minimums, the reduced footprint BMP, native growth retention BMP, and/or a fee in lieu of (if the WLR Division has a program for retrofits within the site’s basin) may be used for compliance.

The requirement to provide these minimum levels of BMP implementation to be achieved by using either reduced footprint, native growth retention, and/or a fee in lieu of does not apply to road improvement projects in the 2016 SWDM since it is recognized that going beyond the “maximum extent feasible” approach on these projects is neither practicable nor in the public interest. This is because limited right-of-way areas restrain the use of native vegetation and reduced footprint BMPs and it is in the public interest to not displace or reduce the prescribed size of critical transportation infrastructure. This same reasoning applies to projects located at KCIA. This proposal to eliminate the minimum BMP implementation levels for the King County Airport is consistent with the Washington State Department of Ecology Stormwater Management Manual for Western Washington (SWMWW), which only requires implementation of the “maximum extent feasible” approach described earlier.

### Conditions of Approval

For KCIA projects vested to the 2016 SWDM, all other provisions of Core Requirement 9 (FCBMPs) of the 2016 SWDM not addressed by this adjustment must be met. For projects vested to the 2009 SWDM, all the provisions of Core Requirement 9 of the 2016 SWDM (FCBMP requirements and implementation approach) must be met, except as otherwise allowed by this adjustment.

3. Exempt projects located at the KCIA from the distance provision of criteria (a) of the Direct Discharge Exemption (described in Section 1.2.3 of the 2009 and 2016 SWDMs) that states that "The flow path from the project site discharge point to the edge of the 100-year floodplain of the major receiving water will be no longer than the ¼ mile."

### Findings/Justification

Beyond addressing any identified capacity issues for KCIA internal conveyance systems, (which is addressed explicitly by criteria (c) of the Direct Discharge Exemption), requiring flow control facilities for KCIA properties beyond ¼ mile provides no predictable benefit to the downstream major receiving water (Duwamish River).

Ecology's 2014 SMMWW allows the direct discharge exemption from flow control to Duwamish/Green River Downstream of River Mile 6 (South Boeing Access Road) and does not include a ¼-mile distance provision/requirement.

KCIA maintains a robust inspection and maintenance program for the entire KCIA storm system, including leaseholds as the performance of the system is critical to maintaining airport operations. KCIA can respond in a timely matter to any issues due to its underlying ownership and maintenance relationship with its leaseholders.

King County has approved individual SWDM adjustments at the KCIA addressing this issue. In particular, VARD14-0019 (KCIA AARF) is a previously approved SWDM adjustment that allowed a KCIA project to utilize the direct discharge exemption for a project site beyond the ¼ mile specified in Direct Discharge Exemption criteria (a). Key excerpts: "*The flow path from the project site discharge point to the edge of the 100-year floodplain of the Duwamish River is longer than ¼ mile. Therefore, the engineer is submitting a variance to allow direct discharge proposal for a flowpath that is greater than ¼ mile. Their proposed request is based on the following findings:*

- *The project site discharges to the Lower Duwamish River through a manmade (comprised of storm drainage pipes, a pump station, and a tide gate at the outfall to the River) conveyance system.*
- *The downstream system for the project was analyzed by URS Corporation as part of the KCIA Outfalls Assessment in November 2009. The outfall Assessment Report found no downstream conveyance issues related to the discharge system for this project site."*

**Conditions of Approval**

This adjustment applies to KCIA located projects and addresses only the ¼-mile distance provision of criteria (a) of the Direct Discharge Exemption. All other criteria for Direct Discharge Exemption must be achieved.

4. Allow the following modifications to the standard declaration of covenant and grant of easement for inspection and maintenance of stormwater facilities and FCBMPs that are within KCIA:

Replace standard paragraph #2 with the following text:

*“King County WLR Division personnel with prior arrangement and accompanied by FAA-mandated escort shall have the right to ingress and egress over those portions of the Property necessary to perform inspections of the stormwater facilities and BMPs and conduct other activities specified in this Declaration of Covenant and in accordance with King County Code ("KCC") 9.04.120 or relevant municipal successor's codes as applicable.”*

Replace standard paragraph #3 with the following text:

*If King County WLR Division personnel determine that maintenance or repair work is required to be done to any of the stormwater facilities or BMPs, the Director of the WLR Division (Director) or its municipal successor in interest shall give notice of the specific maintenance and/or repair work required pursuant to KCC 9.04.120 or relevant municipal successor's codes as applicable. The Director shall also set a reasonable time in which such work is to be completed by the Owners. If the above required maintenance or repair is not completed within the time set by the Director, the County may perform the required maintenance or repair, and hereby is given access to the Property, subject to the stipulation for prior arrangement and accompaniment by an FAA-mandated escort stated in Paragraph 2 above, for such purposes. Written notice will be sent to the Owners stating the County's intention to perform such work. This work will not commence until at least seven (7) days after such notice is mailed. If, within the sole discretion of the Director, there exists an imminent or present danger, the seven (7) day notice period will be waived and maintenance and/or repair work will begin immediately.*

**Findings/Justification**

Standard declaration of covenant and grant of easement documents for inspection and maintenance of stormwater facilities and FCBMPs are contained in Reference 8-J of the SWDM. In the standard declaration of covenant and grant of easement, “King County” is generically cited as the grantee and inspecting authority. The modified declaration of covenant and grant of easement provides clarity that the King County WLR Division is the inspecting authority as distinguished from onsite KCIA staff (also “King County”). The modified declaration of covenant and grant of easement addresses Federal Aviation Authority (FAA) requirements that visitors (for example, WLR Division inspector) to the


“airside” portion of the KCIA be escorted by authorized KCIA staff and formalizes notice requirements to ensure KCIA staff are available. Modified declaration of covenant and grant of easements have previously been recorded at the KCIA that address these issues.

**Conditions of Approval**

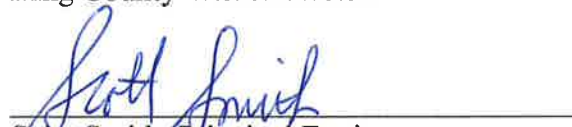
DPER staff will review proposed modified declaration of covenant and grant of easements for KCIA projects to ensure changes are limited to those specified above.

Please note that approval of this adjustment does not relieve applicants from other county, state, or federal requirements, including any requirements imposed through the SEPA process. Individual designs proposing use of this adjustment will be reviewed and approved during plan review to ensure that compliance with the conditions stated herein is achieved. If you have any questions, please call Mark Wilgus, Engineer IV with the Stormwater Services Section, at 206-477-4848.

Approved by the WLR Division and DPER as follows:

  
Curt W. Crawford, Manager  
Stormwater Services Section  
King County WLR Division

7/26/16  
Date

  
Scott Smith, Principal Engineer  
King County DPER

8/10/2016  
Date

CC:MW:bgD01

cc: Mark Bergam, Engineer IV, Airport Division, Department of Transportation  
Mark Wilgus, Engineer IV, Stormwater Services Section, Water and Land Resources  
Division, Department of Natural Resources and Parks