STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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May 3, 2013

Port of Vancouver
Attn: Lisa Willis
3103 NW Lower River Road
Vancouver, WA 98660

RE: Water Quality Certification - Order #5984 Corps NWP-2007-916-1, Port of Vancouver USA Berth Dredging -Maintenance dredging and Phase 1 deepening in Vancouver, Clark County, Washington

Dear Ms.Willis:

The above-referenced public notice for proposed work in waters of the state has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed in the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

If you have any questions concerning the content of this letter, please contact Laura Inouye at (360) 407-6165.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

by Certified Mail 7010 2780 0000 2503 3525

Enclosures

Order #5984
Corp Ref# NWP-2007-916-1
May 3, 2013

cc: Tom Taylor, Corps
Steve West, WDFW

ecc: Loree' Randall, Ecology (SEA)
Laura Inouye, Ecology (SEA)
Pete Striplin, Ecology (TCP)
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Port of Vancouver in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER No. 5984** **Corps Reference No.** NWP-2007-916-1 Port of Vancouver USA Berth Dredging - Maintenance dredging and Phase 1 deepening in Vancouver, Clark County, Washington

TO: Port of Vancouver
Attn: Lisa Willis
3103 NW Lower River Road
Vancouver, WA 98660

On December 27, 2012, the Port of Vancouver (Port) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on March 14, 2013.

The Port currently is authorized to conduct maintenance dredging, known as Phase 1, at its marine facilities, including the Grain Terminal and Berths 1, 2, 4, 5, 7, 8, 9, 10, 13, and 14. This dredging was previously authorized by the U.S. Army Corps of Engineers (USACE) Permit NWP-2007- 916, valid January 2009 through February 2019. The current project is authorized by the existing Ecology, CWA Section 401 Water Quality Certificate Order #5984 that expires on October 1, 2013. The Port is proposing modifications to the existing project with respect to dredging and placement methods; therefore, Ecology is hereby rescinding Order #5984. All maintenance dredging as part of Phase 1 and the modifications below are authorized by this Order.

- Modify Dredge Depths at Berths 1 and 5 (Terminal 2) and Berths 10 and 13 and 14 (Terminal 4):
  The Port will deepen Berths 1 and 5 and Berths 10, 13, and 14 at Terminal 4 (known as Phase 2) to an authorized depth of -43+2 feet (ft.) advance dredging and allowable overdredging Columbia River Datum (CRD) from the current maintenance a depth of -40+2 ft. CRD. The ongoing maintenance of these berths to the newly authorized depth of -43+2 will continue as necessary. The total annual volume of dredge material generated from the deepening and ongoing maintenance of the Port's marine terminal berths (both Phase 1 and Phase 2) will continue to be a maximum of 50,000 cubic yards (CY) annually as currently permitted.

- Adjust the dredging location at Berth 10: The Port will dredge the slope adjacent to the north and west sides of and beneath Berth 10 to remove accumulated sediment that could potentially interfere with the existing floating dock. This area is located between the previously planned dredge limits and the shoreline.

- Clarify that hydraulic dredging may be used at Berth 10: Although the Port is currently authorized to use a clamshell bucket or a long-arm excavator as its preferred dredging technology, the dredging method at Berth 10 may include hydraulic dredging. This modification is because of the difficulty of accessing the accumulated sediment beneath the Berth 10 dock.

- Verify placement site locations: In addition to the currently authorized use of upland placement sites Parcel 1A, Parcel 3, and Parcel 8, the Port may use Terminal 5 West for potential dredge material placement.

- Potentially change the permitted in-water work window: Although currently authorized to conduct in-water work between November 1 and February 28, the Port will conduct in-water work within the window currently authorized by the state and federal agencies with regulatory jurisdiction.

- Extend work hours to allow night-time activities: Due to possible schedule limitations that could result from a modified in-water work window period, dredging operations could include night shifts when necessary.

As currently authorized, approximately 21.3 acres of berthing area will be affected by this modified project. The majority of the dredging will take place at least 50 feet from shore and in water depths between -30 feet and -45 feet CRD.

As currently authorized, dredging will be performed mechanically from the water. Sediments dredged using mechanical methods will be placed on a barge, dewatered through barge scuppers, and offloaded at Berth 4, Berth 9 and/or Berth 10. The material then will be trucked to a permitted placement site.

Sediments dredged using hydraulic methods will be pumped upland to a constructed dewatering containment area near the dredge site for dewatering. The dewatering containment area will be constructed of ecology blocks and filter fabric, and will be approximately one to two acres in size. Drainage will be captured, and sediments will be allowed to settle out before the water is released through a weir and discharged to the river.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water-quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and

3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the Port of Vancouver and its agents, assignees, and contractors.

2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or lino461@ecy.wa.gov. Any submittals shall reference Order #5984 and Corps Reference #NWP-2007-916-1.

3. All notifications listed below shall be made via phone to Laura Inouye at (360) 407-6165 or e-mail (lino461@ecy.wa.gov). These notifications shall be identified with Order #5984 and include the Applicant's name, the project contact, and the contact's phone number.

   a. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
   b. Within at least seven (7) days after completion of the in-water work.

4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on December 27, 2012, unless otherwise authorized by Ecology.

5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.

6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.

7. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual 404 and/or Section 10 permit for the project.

8. The Applicant shall send (per A.2.) a copy of the final Section 404 Corps permit to Ecology' Federal Project Manager within two weeks of receiving it from the Corps.

9. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.

10. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.

11. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.

12. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.

13. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.

14. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.

15. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

16. This Order will automatically transfer to a new owner or operator if:
    a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
    b. A copy of this Order is provided to the new owner or operator; and
    c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

B. Water Quality Conditions

1. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i)(C).

    - The area of mixing established for fresh waters is a 300-foot zone downstream of the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU, is a violation of the turbidity water quality standard.

    - Visible turbidity anywhere at 300 foot point of compliance from the activity and/or the disposal location shall be considered to be an exceedence of the standard.

C. Water Quality Monitoring

1. The Applicant shall submit a water quality monitoring plan to Ecology per Condition A.2 at least 14 days prior to dredging. This plan shall be approved by Ecology prior to any in-water work. The plan shall include at a minimum the following information:

    a. Name and contact information of the person or firm responsible for monitoring;
    b. Map of sample locations, including background, 150 ft. early warning point, and point of compliance at or near the surface, midway, and bottom depths. For this project the point of compliance is 300 ft. downstream of the in-water activity.
    c. Parameter to be monitored: turbidity
    d. Sample method;
    e. Frequency, and
    f. Steps to be taken if monitoring results indicate an elevation at the early warning point, or if an exceedence has occurred. The amount of the exceedence and the reason for the exceedence shall also be reported.

2. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal Permit Coordinator. The Permit Coordinator shall be contacted within 24 hours if an exceedence occurs.

D. Dredging and Disposal:

1. A pre-dredge meeting is required to be convened prior to the start of each dredging season. A **Dredging Plan, Spill Prevention Countermeasure and Control Plan, Water Quality monitoring Plan, and other relevant plans** (see conditions 4b and 5) are required and shall be submitted to Ecology's 401/CZM Federal Permit Coordinator at the address shown in Condition A.2 for review and approval **two weeks prior to the pre-dredge meeting.**

2. Prior to each dredging cycle, the Applicant shall contact the Portland Sediment Evaluation Team (PSET) agencies to determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination has been issued. Ranks for the various Port of Vancouver Terminals vary. Terminal 2 is low rank, while parts of Terminal 3 are high ranked due to proximity to upland cleanup activity or presence of elevated Chemicals of Concern (CoCs). Terminal 4 is ranked low, with the potential exception of Berth 14, where anomalous elevated metals values were initially observed but not confirmed in repeat analyses. Contact the PSET for a possible extension on sediment evaluation results.

3. All dredging is to be done using a clam shell or equivalent dredge, with the exception of Berth 10 where hydraulic dredging is also permitted. **Use of any other type of dredge requires preapproval from Ecology.**

4. If hydraulic dredging is used at Berth 10, the following conditions apply:

    a. Dredged material will be placed as shown in the Joint Public Notice (JPN) sheet 11 of 12 (See Figure 1).
    b. A return water management plan is required and shall be submitted to Ecology to the 401/CZM Federal Permit Coordinator at the address shown in Condition A.2 for review and approval two weeks prior to the pre-dredge meeting. **Use of any other upland disposal location requires pre-approval from Ecology.**
    c. The hydraulic dredge will be maintained at the river bed to the extent possible and the raining of the dredge head will be minimized to the maximal extent practicable during dredging.
    d. If juvenile salmonids or Pacific euchalon are entrained in hydraulic dredge material, dredging will cease immediately Ecology's 401/CZM Federal Permit Coordinator must be notified of the events at (360) 407-6165.

5. Dredged material from Berths 8, 9, and 14 are not approved for in-water placement and must be placed at an approved upland site. For these berths, the dredge plan and water quality monitoring plan shall contain Best Management Practices (BMPs) for managing return water. The plans shall be submitted to Ecology's 401/CZM Federal Permit Coordinator at the address shown in Condition A.2 for review and approval two weeks prior to the pre-dredge meeting (condition D.1). The following conditions shall also apply:

    a. Dredged material will be placed at one of the following upland disposal sites: Gateway Parcel 3, Parcel 8, T5 West, and Parcel 1A. **Use of any other upland disposal location requires pre-approval from Ecology.**
    b. Dredge material placement at T5 West may not be placed within the capped covenant restricted zones under the MTCA cleanup (see Figure 2).
    c. Proper BMPs will be installed to protect surface waters. These shall be provided to Ecology prior to the pre-dredge meeting (condition D.1).
    d. Transloading plans and BMPs must be provided to Ecology prior to the pre-dredge meeting (condition D.1).
    e. Post-dredge grab samples will be required for all dredging until the berths are deepened to their final depths. Sampling plans must be coordinated through the PSET process.

6. For material being taken to open water disposal sites, all debris larger than 2 feet in any dimension shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed.

7. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals, or other toxic or deleterious substances into waters of the state.

8. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.

9. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.

10. Construction BMPs will be employed to control erosion sedimentation, runoff, turbidity, stormwater, and accidental spills.

11. Dredge prisms shall be designed to minimize sloughing and maintain stable side slopes in order to reduce erosion caused by deepening.

12. If daily inspections of dredged material indicate presence of juvenile salmonids, crane operations/hydraulic dredging will be adjusted (slowed) to increase opportunity for juveniles to avoid the dredge.

E. Timing Requirements:

1. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.

2. This Order shall remain in effect for a period of 5 years from date of issuance. Continuing this project beyond the 5-year term of this Order will require separate certifications every 5 years.

F. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal Permit Coordinator at least 7 days prior to the start of dredging each dredging season and within 14 days after completion of dredging each season. Notification should be made using all the information required in Condition A.2.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials and an emergency call list available on site.

2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or other chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If any of these occurs, the Applicant or operator shall immediately take the following actions:

a. Cease operations that are causing the compliance problem.
b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
d. In the event of a discharge of oil, fuel, or other chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
e. Immediately notify Ecology's 24-Hour Spill Response Team at-1-800-258-5990 **and** within 24 hours of spills or other events Ecology's 401/CZM Federal Permit Coordinator at (360) 407-6165.
f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.

4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 **Pollution Control Hearings Board** 1111 Israel Rd SW, Ste 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Laura Inouye
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600

360-407-7503
lino461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
  www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Chapter 90.48 RCW – Water Pollution Control**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48

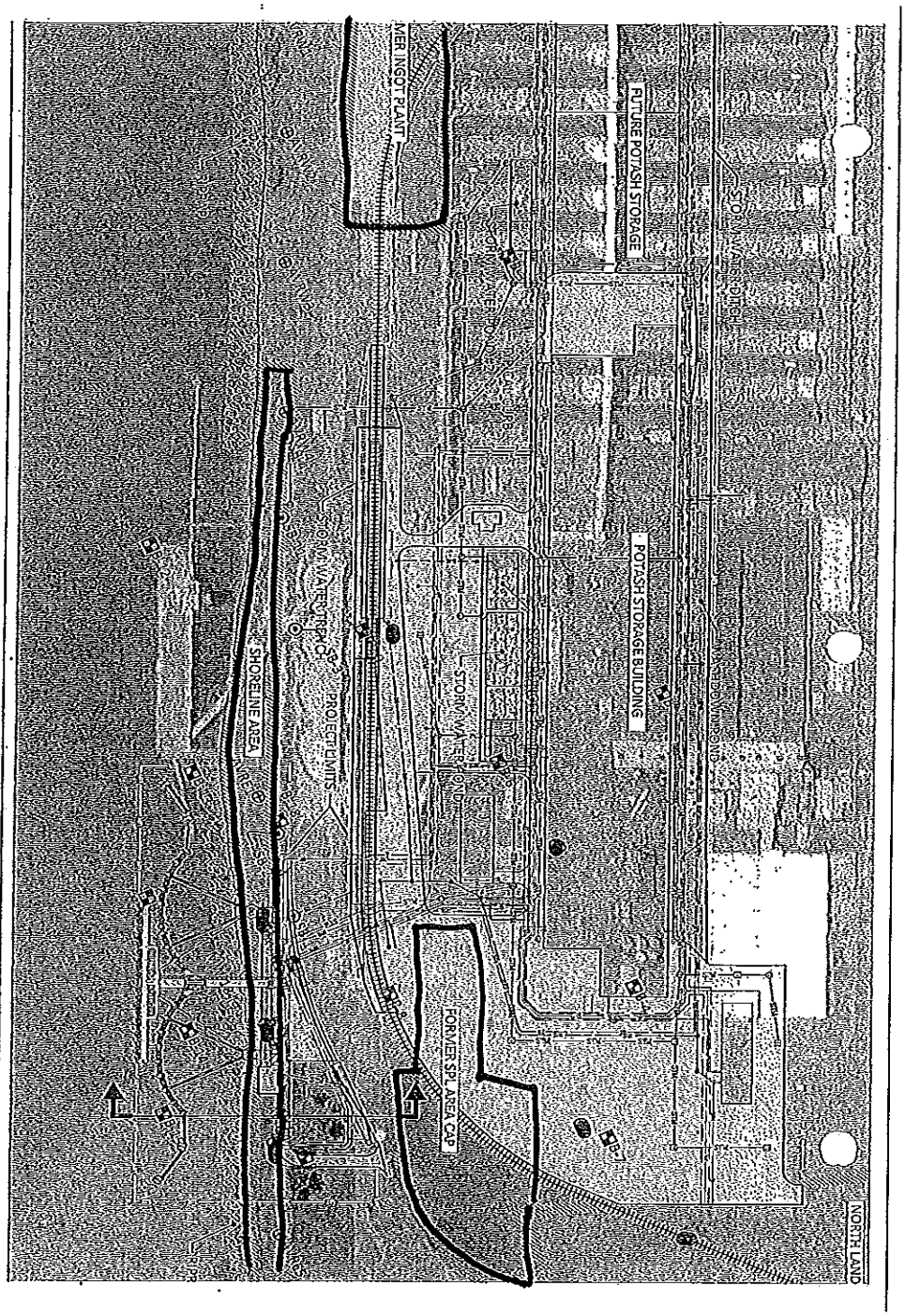
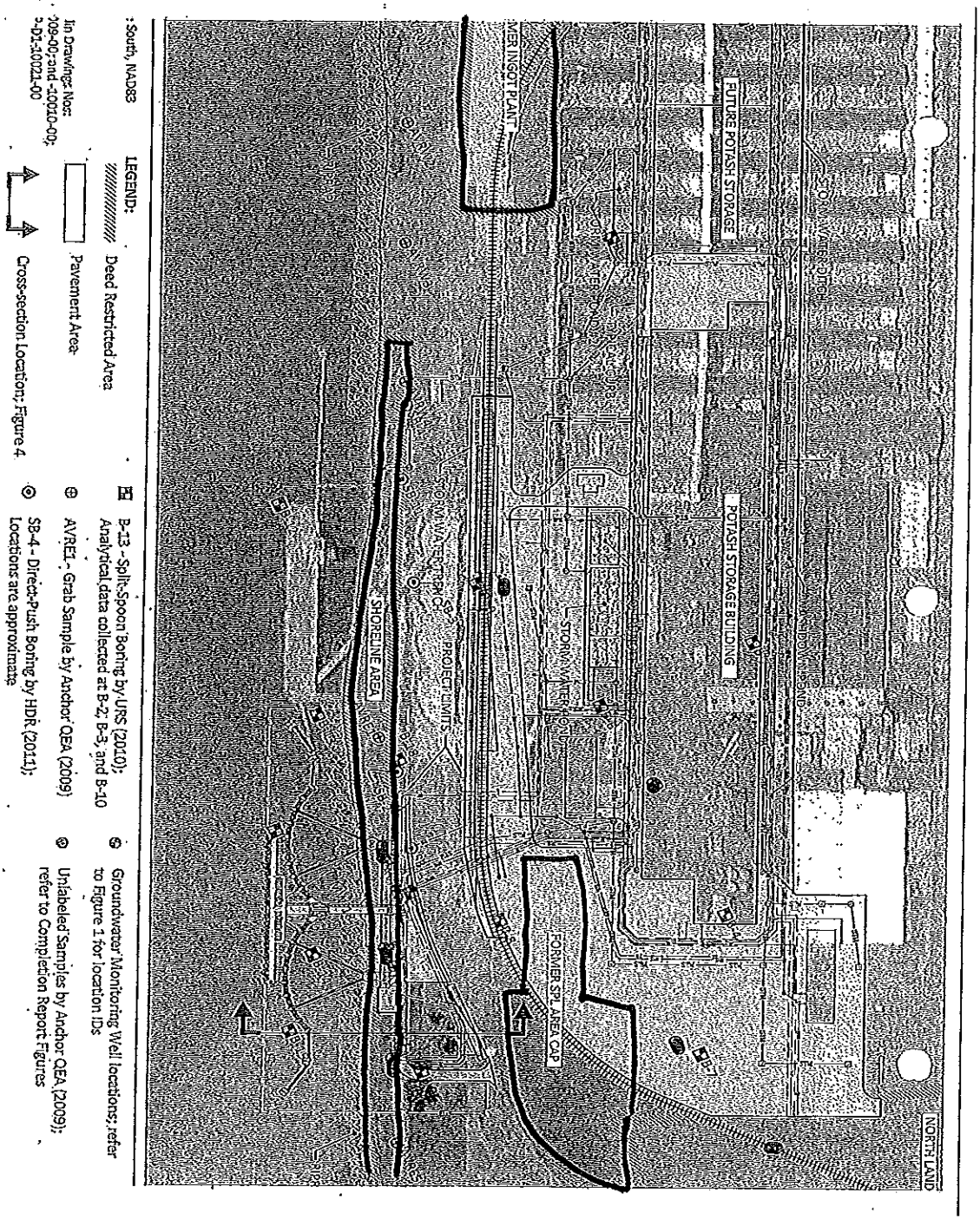
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
  http://www.ecy.wa.gov/biblio/wac173204.html
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
  http://www.ecy.wa.gov/biblio/wac173200.html
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
  http://www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated this May 3, 2013 at the Department of Ecology, Lacey Washington

Brenden McFarland, Section Manager
Environmental Review and Transportation
Shorelands and Environmental Assistance Program
Headquarters

Figure 2. Map showing capped covenant restricted zones under the MTCA cleanup (area labeled as "former SPL area cap").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