



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-823-6341

September 22, 2011

Mr. Norman Gilbert
Port of Bellingham
PO Box 1677
Bellingham, WA 98227

Dear Mr. Gilbert:

RE: Port of Bellingham- Gate 3 Floats F&G Replacement, NWS-2010-1235

On August 10, 2011, the Port of Bellingham submitted a Federal Consistency Determination stating that the replacement of the deteriorating floats F & G at Gate 3 of Squalicum Harbor Marina with new concrete floats and piles is consistent with the Washington State Coastal Zone Management Program (CZMP). The work includes demolition of the existing floats and piles, dredging the basin in the area of the new floats to restore navigable water depths, upland disposal of the dredged material, and installation of new floats, piling, and utilities for floats F & G (which includes replacement of the existing creosote-treated timber piles for boathouse mooring at F-East and G-East floats with new concrete piles).

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, the Department of Ecology (Ecology) concurs with the determination that the proposed work is consistent with Washington's CZMP as long as the following conditions are met:

1. Section 401 of the Clean Water Act (CWA) is one of Ecology's approved enforceable policies. Section 401 requires a State to have "reasonable assurance" that the state water quality standards will be met for this project. In order to ensure that the water quality standards will be met for this project, Ecology is requiring that the Port of Bellingham prepare and submit to Ecology for approval the following plans at least 30 days prior to dredging.
 - a. The Dredging Plan- This plan shall include at a minimum the following information:
 - i. General Project Information, including schedule and contact persons;
 - ii. Dredge quantities and disposal location
 - iii. Equipment list; and



iv. Dredging and Transloading procedures

- b. Water Quality Monitoring Plan- This plan shall include at a minimum the following information:
- i. Name and phone number of person responsible for the monitoring;
 - ii. Map of sample locations, including background, early warning point (75 or 100 ft from activity) and point of compliance. For this project, the point of compliance is a radius of 150-feet from the activity causing the turbidity exceedence;
 - iii. Parameters to be monitored (Turbidity);
 - iv. Sample method;
 - v. Sample frequency;
 - vi. Steps to be taken if monitoring at the early warning points indicate potential for water quality exceedences if actions are not taken; and
 - vii. Steps to be taken if monitoring result indicates exceedences.

Pursuant to 15 C.F.R. § 930.4, if the conditions above are not met then all parties shall treat this conditional concurrence letter as an objection.

You have the opportunity to appeal this conditional concurrence to the Secretary of Commerce as outline below:

1. Pursuant to 15 C.F.R. § 930.63(e), within 30 days from receipt of this letter, you may request that the Secretary of Commerce override this conditional concurrence. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to Ecology's Shorelines and Environmental Assistance (SEA) program and the federal permitting or licensing agency. The Secretary may collect fees from you for administering and processing your request.
2. Pursuant to 15 C.F.R. § 930.125, the appellant shall send the Notice of appeal to the Secretary, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230; a copy of the notice of appeal to the objecting State agency; and to the Assistant General Counsel for Ocean Services (GCOS), 1305 East West Highway, Room 6111 SSMC 4, Silver Spring, Maryland 20910.

You also 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 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	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	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
360-407-6165
lino@461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Mr. Norman Gilbert
Port of Bellingham
September 22, 2011
Page 4 of 4

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173.204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

If you have any questions regarding Ecology's consistency determination please contact Laura Inouye at 360-407-6165.

Sincerely,



Brenden McFarland, Section Manager
Shorelands & Environmental Assistance Program
Headquarters Office – Ecology
State of Washington

by Certified Mail 7009 1410 0002 4001 1736

ecc: Mark Henderson, Ecology, BFO
Laura Inouye, Ecology, SEA
Lucy McInerney, Ecology, TCP
• Randall Perry, USACE
Loree' Randall, Ecology, SEA
Brian Sato, Ecology, TCP
Bob Swackhamer, Ecology, TCP
Barry Wenger, Ecology, BFO
ecyrefedpermits@ecy.wa.gov