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 877-833-6341

January 15, 2016

Bellingham Cold Storage
Attn: Mr. Gary White
2825 Roeder Ave
Bellingham WA 98225

RE: Water Quality Certification Order No. 13116 for Corps Public Notice No. NWS-2015-785 Squalicum Waterway Navigational Maintenance dredging, Whatcom County, Washington

Dear Mr. White:

On October 1, 2015, Bellingham Cold Storage submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the Squalicum Waterway Navigational Maintenance Dredging project, Whatcom County, Washington.

The proposed project is to conduct maintenance dredging to restore the navigable depths in Squalicum Waterway at the existing Bellingham Cold Storage facility dock.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Helen Pressley at (360) 407-6076. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland
Shorelands and Environmental Assistance Program

Enclosure

by certified mail 7015 0640 0006 1040 9326

e-cc: Randel Perry, Corps of Engineers
ECY RE FEDPERMITS
Valerie Oster, Anchor QEA, LLC
Joel Ingram, WDFW
Helen Pressley – HQ, SEA
Loree Randall–HQ, SEA

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Bellingham Cold Storage in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER #13116** **Corps Reference No. NWS-2015-785** Dredging of up to 14,200 cubic yards (cy) of sediment from a total of 1.46 in Squalicum Waterway in Bellingham Bay, Whatcom County, Washington.

TO: Bellingham Cold Storage
Attn: Mr. Gary White
2825 Roeder Ave
Bellingham WA 98225

On October 1st, 2015 Bellingham Cold Storage 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 October 16, 2015.

This project includes dredging of up to 14,200 cy of sediment from a total of 1.46 acres to restore a depth of -24 feet mean lower low water (MLLW), with an additional two feet of over dredge allowance (total of -26 feet MLLW). Work will be performed using a barge mounted clamshell excavator. The barge will be stabilized using spud piling or an anchor. Gravity dewatering of the dredge sediment will occur on the barge. Dredged sediment will be disposed of at the Rosario Strait open water disposal location.

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. For purposes of this Order, the term "Applicant" shall mean Bellingham Cold Storage and its agents, assignees and contractors.

2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Manager, P.O. Box 47600 Olympia, WA 98504-7600 and/or fednotification@ecy.wa.gov. Any submittals shall reference Order #13116 and Corps Reference # NWS-2015-785.

3. All notifications listed below shall be made via phone to Helen Pressley at 360/407-6076, or e-mail at fednotification@ecy.wa.gov. These notifications shall be identified with Order 13116 and include the Applicant's name, the project contact, and the contact's phone number.

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

4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on October 1, 2015, 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 an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice 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. 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.

13. 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.

14. 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.

B. Water Quality Conditions:

1. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i).

    - The area of mixing established for marine waters is a 150 foot radius surrounding 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 150 ft point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.

C. Water Quality Monitoring:

1. The Applicant shall implement the water quality monitoring plan (WQMP) "Bellingham Cold Storage – Squalicum Waterway Navigational Maintenance Dredging" dated January 2015 that Ecology approved on January 13, 2016.
2. If changes to the WQMP are proposed at any time during the duration of this Order, the Applicant shall submit a revised plan to Ecology for review and approval. The Applicant shall allow at least 14 day review time for Ecology. Following Ecology's approval, the Applicant shall comply with the approved, updated WQMP.
3. Turbidity monitoring reports shall be sent weekly to the Federal Permit Manager. The Federal Permit Manager shall be contacted within 24 hours if an exceedance occurs.

D. Dredging and Disposal:

1. All dredging is to be done using a mechanical clamshell dredge. **Use of any other type of dredge requires preapproval from Ecology.**
2. All dredged material will be barged to the Rosario Strait open water disposal site using a split-hull, bottom dump scow. **Use of any other type of disposal method or location requires preapproval by Ecology.**
3. 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.
4. 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.

5. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
6. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
7. The barge shall be managed to ensure that no overtopping of the barge sideboards is allowed during placement of the dredged material into the barge.
8. A pre-dredge meeting is required to be convened prior to the start of each dredging season. A **Dredging Plan** is required and shall be submitted to Ecology to the Federal Permit Manager at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-construction meeting. Note: For the 2016 dredging season Ecology has reviewed and approved the dredging plan dated January 13, 2016.
9. Prior to each dredging season, the Applicant shall contact the DMMP 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. This area ranks moderate in potential for contamination and the recency determination extends until August 2020.

E. Timing Requirements:

1. All in-water work shall be completed within the in-water work window of December 1st and February 15th of any year that is identified with WDFW HPA's. 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 until February 15, 2018.

F. 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 chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, 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 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) 407-6076.

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	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD 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:

Helen Pressley
Department of Ecology
Headquarters Office

PO Box 47600

Olympia, WA 98504-7600

360/407-6076

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 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

SIGNATURE

DATED January 15, 2016 at Olympia, Washington.

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

ATTACHMENT A

Bellingham Cold Storage
Squalicum Waterway Maintenance Dredging
Water Quality Certification Order #13116

Statement of Understanding of
Water Quality Certification Conditions

I have read and understand the conditions of Order #13116 Section 401 Water Quality Certification for the Bellingham Cold Storage Squalicum Waterway Maintenance Dredging. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

_____ _____
Signature Date

_____
Print Name

_____
Company

_____
Title