



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 1, 2008

REGISTERED MAIL

RB 252 946 850 US

Ms. Jessi Belton
Port of Vancouver
P.O. Box 1180
Vancouver WA 98666

RE: Water Quality Certification - Order #5984/Corps Public Notice NWP-2007-916P

Dear Ms. Belton:

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 Helen Pressley at (360) 407-6076.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

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

cc: Tom Taylor, Portland Corps
Todd Thornburg, Anchor Environmental LLC,

e-cc: Loree' Randall, Ecology/HQ
Lori Ochoa, Ecology/SWRO
Federal Permit Contact HQ



IN THE MATTER OF GRANTING A) ORDER #5984
WATER QUALITY) Corps Reference No. NWP-2007-916P
CERTIFICATION TO) Phase 1 maintenance dredging of up to 200,000
the Port of Vancouver) cubic yards of material to deepen berthing areas
 In accordance with 33 U.S.C. 1341) to -43 feet Columbia River Datum (CRD) plus 2
 (FWPCA § 401), RCW 90.48.120, RCW) feet of advance/allowable dredging to a total
 90.48.260 and Chapter 173-201A WAC) depth of -45 feet CRD in the Columbia River,
) Clark County, Washington.

TO: Ms. Jessi Belton
 Port of Vancouver
 P.O. Box 1180
 Vancouver WA 98666

On October 4, 2007 the Port of Vancouver submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on December 12, 2007.

The applicant has requested a permit to remove approximately 50,000 cubic yards (cy) of sediment from its berthing areas in Phase 1 of a 2 Phase project. Phase 1 would extend from November 2008 through February 2013 and is the subject of this water quality certificate. The federal navigation channel in the project area is currently authorized to a depth of -43 CRD with an additional 2 feet of advance dredging and allowable overdredging to a total depth of -45 feet CRD. The following terminals and berthing areas will be dredged during Phase 1:

- Terminal 2 – Grain Terminal and Berths 2 and 4.
- Terminal 3 – Berths 7, 8, and 9.

Additionally, annual maintenance dredging of up to 150,000 cy of sediment will be removed as part of regular maintenance of all berths, both Phases 1 and 2. A maximum amount of 200,000 cy will be removed over the term of this permit.

Dredging will be performed mechanically from the water using either a derrick and clamshell or a long-arm excavator. An open bucket will be necessary because of the dense and consolidated nature of the material to be dredged. The dredge prism will be offset 5 feet from the berth face to minimize sloughing of side-slope sediments into the dredging area.

The dredged material will be transferred to a fully-fenced transport barge where it will be dewatered overnight through filtered scuppers on the barge. Depending on Port operations and availability, off loading will be done at Berth 4, 9, or 10.

The material will be offloaded to either a bermed stockpile area or directly onto trucks to be hauled to the Ports upland placement site(s). Spill plates will be used during offloading to minimize spillage of sediment back into the river. Any dewatering discharge will be filtered prior to its re-entry into the river or into the Port's stormwater drainage system which includes further detention and settling.

The Port plans to place the dredged material at the Port's Gateway 3 dredged material disposal site on the northwest corner of Parcel 3, on the Parcel 8 site, or another appropriately permitted upland site. The Port plans to pursue permits to fill portions of Parcel 7, Parcel 1A, and other portions of Parcel 3, any of which may be considered for use during the life of this permit. Beneficial use of the material may also be considered.

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, 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 not violate 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 the Port of Vancouver 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: 401/CZM Federal Project Manager, P.O. Box 47600 Olympia, WA 98504-7600. Any submittals shall reference Order #5984 and Corps Reference # NWS-2007-916P.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Protection Application (JARPA) received by Ecology on May 2, 2008. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. 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.
5. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept 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.
7. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. 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. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. 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.

10. 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.
11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

B. Water Quality:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i)(D). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. The Water Quality Monitoring Plan shall be reviewed and approved by Ecology prior to the start of this project.

C. Dredging and Disposal at All Terminals:

1. All dredging will be done mechanically from the water using either a derrick and a clamshell or a long-arm excavator. Use of any other type of dredge will require prior approval from Ecology. An open bucket may be used in areas where there is consolidated sediment.
2. 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. All debris shall be disposed of at appropriate upland locations.
3. Straw bales shall be covered with filter fabric.
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. If additional upland disposal sites not named in the project description are needed the

Applicant shall notify Ecology in writing. Ecology will need to approve the site prior to their use.

7. A Dredging Plan shall be developed and implemented. The Applicant shall submit the Plan for Ecology's review and approval to the Federal Permit Coordinator (See Condition #A2 above) at least 7 days prior to the start of dredging.
8. This project must be dredged before the most current sediment evaluation recency or frequency date of 04/01/2013. After 04/01/2013, the Applicant must either request an extension for the sediment evaluation or conduct another sediment evaluation through the Portland RSET.

D. Dredging and Disposal of Sediment from Terminal Three:

NOTE: These conditions are required in addition to Conditions C1 through C8.

1. Sediments currently in Berth 7 and in Berths 8 and 9 are contaminated with copper (Berth 7) and tributyltin (TBT) (Berths 8 and 9). This material shall be dredged and barged separately from the material deposited elsewhere. Materials from these berths may not be resold and must be reused on-site where it cannot re-enter the Columbia River.
2. Material from these berths left to dewater on a barge shall be prevented from releasing unfiltered water back into the Columbia River.
3. The dredged material from these berths may not be stockpiled in any area which will be directly dewatered to the Columbia River, unless this material is filtered.
4. The sediment shall be dredged down to a depth of -45 to -46.5 feet in this area to ensure that all contaminants have been removed. Z-layer testing has shown that sediments in these berths meet the sediment evaluation framework (SEF) guidance at this depth.
5. A turbidity and dissolved oxygen (DO) monitoring plan for the sediment in these berths shall be reviewed and approved by Ecology. The area to be dredged, the vicinity of the barge, and the area where the sediment is offloaded shall all be monitored.

E. Timing Requirements:

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

F. Notification Requirements:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's HQ Federal Permit Coordinator in writing at least three (3) days prior to the start of dredging.
2. The Applicant shall provide written notification to Ecology's HQ Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

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 chemicals into state waters, including wetlands, 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 Southwest Regional Spill Response Office (SWRO) at 1-360-407-6300 of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
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's SWRO Regional Spill Response Office at 1-360-407-6300.

H. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

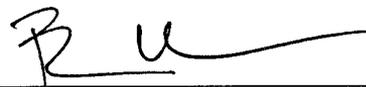
In addition, please send a copy of your appeal to:

Ms. Helen Pressley
Federal Permit Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated Oct 1, 2008 at Lacey, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Attachment #A

**Water Quality Certification
Statement of Understanding
Port of Vancouver Berth Deepening Project
Order #5984, Corps #NWS-2007-916P**

I, _____, state that, as an agent or contractor for dredging and/or dredge-related work in the Columbia River, Clark County, Washington, I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order # 5984 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company