



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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May 31, 2012

Murphy's Landing Marina Owners Association  
Attention: Mr. Bruce Rogers  
3901 Harborview Dr.  
Gig Harbor WA 98332-2132

RE: Water Quality Certification - Order #9192/Corps Public Notice #2009-320 – Murphy's  
Landing Marina Stormwater Diversion Berm Replacement and Maintenance Dredging  
Project, Gig Harbor, Pierce County, Washington

Dear Mr. Rogers:

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,

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

Enclosure

by Certified Mail 7009 0820 0001 9056 1028



Murphy's Landing Marina Owners Association

May 31, 2012

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cc: Pamela Sanguinetti, Corps  
Chris Waldbillig, WDFW,  
David Molenaar, NMFS  
Jeffrey T. Becker, P.E., Layton & Sell, Inc., P.S.

ecc: Loree' Randall, Ecology  
Helen Pressley, Ecology  
Laura Inouye, Ecology  
Alex Callender, Ecology  
DMMP@dnr.wa.gov  
Ecyrefedpermits

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #9192</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 2009-320</b>
<b>CERTIFICATION TO</b>	)	Replacement of a deteriorated stormwater
<b>Murphy's Landing Marina Association</b>	)	diversion berm and maintenance dredging of
in accordance with 33 U.S.C. 1341	)	approximately 2,800 cubic yards of sediment,
(FWPCA § 401), RCW 90.48.120, RCW	)	repair of a stormwater outfall and repair of
90.48.260 and Chapter 173-201A WAC	)	damaged floats in Gig Harbor, Pierce County, Washington

TO: Murphy's Landing Marina Owners Association  
 Attention: Mr. Bruce Rogers  
 3901 Harborview Dr.  
 Gig Harbor WA 98332

On November 10, 2011, the Murphy's Landing Marina Owners Association submitted a revised Joint Aquatic Resources 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 Washington State Department of Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on March 12, 2012.

The proposed project will replace a deteriorated stormwater diversion berm and maintenance dredging of approximately 2,800 cubic yards of sediment, repair of a stormwater outfall and repair of damaged floats. Work proposed includes:

- Installation of a sheet pile berm and removal of on grade portions of the old rock berm and sandbags;
- Maintenance dredging of the marina basin in the amount of approximately 2,800 cubic yards (cy) of sediment. Approximately 560 cy of sediment will be used beneficially to rebuild the eroding delta where a City of Gig Harbor stormwater outfall discharges into the area of the berm. Sediment not used beneficially will be towed to the Commencement Bay open water disposal site.
- Stabilization of the above-referenced outfall using a riprap dispersion pad;
- Repair of damaged float sections;
- Removal of creosote-treated piling marking the navigation channel to be replaced with galvanized steel pipe piles and permanent removal of three creosote-treated piling located near the landward end of the guest dock, and
- Logs with rootwads attached are to be installed to increase available habitat.

The purpose of this work is to minimize the amount of erosion, prevent it from flowing into the marina, improve navigability, and repair damage done to floats in the marina.

**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 the Murphy's Landing Marina Owner's Association 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 permit coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or hpre461@ecy.wa.gov. Any submittals shall reference Order #9192 and Corps Reference # NWS 2009-320.

3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on November 10, 2011. 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 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.
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. 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.
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 every 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. 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.

**C. Water Quality Monitoring:**

1. Turbidity shall be monitored visually. Visible turbidity anywhere at or beyond the 150 ft point of compliance from the activity shall be considered to be an exceedance of the standard and reported. Visual monitoring shall be conducted during in-water activities.
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 exceedance occurs.

**D. Dredging and Disposal:**

1. All dredging is to be done using a barge-mounted clamshell dredge. **Use of any other type of dredge requires preapproval from Ecology.**
2. The total sediment to be dredged is approximately 2,800 cy. Of that total, 560 cy will be used beneficially to rebuild the delta of the stormwater outfall/creek discharge area. The remaining material will be taken by hopper barge to the Commencement Bay open water disposal site. **Use of any other type of disposal method or location requires preapproval by Ecology.**
3. 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.
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. Sediment used for rebuilding the delta area shall be placed in the dry whenever possible and not stored below the Ordinary High Water Mark (OHWM).
8. Barges shall not be allowed to ground out.
9. A pre-dredge meeting is required to be convened prior to the start of dredging. A **Dredging Plan** is required and shall be submitted to Ecology to the 401/CZM Federal permit coordinator at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-construction meeting.

**E. Construction and Repair:**

General Construction and Float Repairs:

1. All work shall be done so as to minimize turbidity, erosion, and other water quality impacts. All work shall be done in the dry whenever possible to prevent the discharge of turbidity into waters of the state.
2. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands wherever possible in order to prevent contamination of surface water.
3. All construction debris, broken riprap, etc. shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
4. The Applicant shall use tarps or other containment methods when cutting, drilling, or construction over-water to prevent debris, sawdust, concrete rubble, and other materials from entering the water.

Piling Conditions:

5. No new piling installed may be treated with creosote.
6. During pile removal and pile driving, a containment boom shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as a result of construction activities. All accumulated debris shall be collected and disposed of upland at an approved disposal site. Absorbent pads shall be deployed should any sheen be observed.
7. The work surface on a barge or the uplands shall include a containment basin for piles and any liquid or sediment removed during pulling of the piling. Basins may be

constructed of durable plastic sheeting with sidewalls supported by hay bales or support structure to contain all sediment and liquid. Water left in the basins shall not be discharged into waters of the state.

8. Piles removed from substrate shall be moved immediately from the water onto the upland or a barge. The pile shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile. All excavated piles shall be disposed of at an approved upland disposal site.
9. An acoustical barrier shall be used to prevent injury to marine animals.

**F. 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 3 years from date of issuance. Continuing this project beyond the 3 year term of this Order will require separate certifications every 3 years.

**G. 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 construction or dredging and within 14 days after completion of construction or dredging at the project site. Notification should be made using all the information required in Condition A2.

**H. 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**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<p><b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p><b>Pollution Control Hearings Board</b> 1111 Israel RD SW STE 301 Tumwater, WA 98501</p>	<p><b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p><b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903</p>

**DATED: May 31, 2012 at Olympia, Washington.**



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

**ATTACHMENT A**

**Murphy's Landing Marina Owners Association  
Murphy's Landing Maintenance Dredge and Repair Project  
Water Quality Certification Order #9192**

**Statement of Understanding of  
Water Quality Certification Conditions**

I have read and understand the conditions of Order #9192 Section 401 Water Quality Certification for the **Murphy's Landing Maintenance Dredge and Repair Project**. 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

