



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 17, 2012

Peter Martinez
8134 West Mercer Way
Mercer Island, WA 98040

RE: Water Quality Certification Order 9201 for Corps Public Notice NWS-2010-514

Dear Mr. Martinez:

On February 9th 2011, Peter Martinez, through authorized agent Ryan Walker, Grette Associates, submitted a revised Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification.

The proposed project entails an 8-foot wide by 10-foot long concrete abutment constructed landward of the Ordinary High Water Mark (OHWM). A 5-foot wide by 80-foot long pile supported pier and a 15-foot long by 8-foot wide pile supported pier constructed waterward of the OHWM. A ground based personal watercraft lift, a ground based boat lift, and a mooring buoy will be installed waterward of OHWM, and 17 inch diameter cedar logs will be installed adjacent to both sides of the concrete abutment along the shoreline.

The project is located at 17124 South Lakeshore Road, within Lake Chelan, Chelan County, Washington, Section 33, Township 29N, Range 21 East of the Willamette Meridian, Water Resource Inventory Area (WRIA) Chelan #47.

A public notice for a proposed water quality certification from Ecology was distributed by the U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on February 1, 2012.

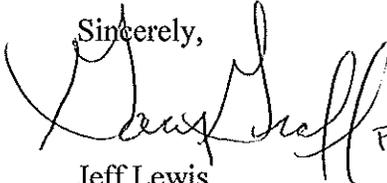
On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained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



Peter Martinez
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If you have any questions, please contact Gary Graff at (509) 454-4260. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



FOR JEFF LEWIS

Jeff Lewis
Central Regional Office
Shorelands and Environmental Assistance Program

Enclosure

By certified mail: 7009 2250 0004 4951 2994

cc: Jerald Gregory– U.S. Army Corps of Engineers
e-cc: Jeff Wilson –Chelan County Community Development
Ken Bevis – WDFW
Steve Vaughn – Chelan County PUD
Loree' Randall – Ecology HQ
John Merz – Ecology Central Regional Water Quality Unit Supervisor
Gary Graff – Ecology Central Regional Federal Permit Coordinator
Ryan Walker - Grette Associates
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	ORDER # 9201
WATER QUALITY)	Corps Reference No. NWS-2010-514
CERTIFICATION TO)	Construction of a single-use fixed pile pier;
Peter Martinez, in accordance with 33)	placement of place one ground-based boatlift,
U.S.C. 1341 (FWPCA § 401), RCW)	one boatlift, and one mooring buoy.
90.48.120, RCW 90.48.260 and Chapter)	
173-201A WAC)	
)	

TO: Peter Martinez
8134 West Mercer Way
Mercer Island, WA 98040

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The proposed project entails an 8-foot wide by 10-foot long concrete abutment constructed landward of the Ordinary High Water Mark (OHWM). A 5-foot wide by 80-foot long pile supported pier and a 15-foot long by 8-foot wide pile supported pier constructed waterward of the OHWM. A ground based personal watercraft lift, a ground based boat lift, and a mooring buoy will be installed waterward of OHWM, and 17 inch diameter cedar logs will be installed adjacent to both sides of the concrete abutment along the shoreline.

The project is located at 17124 South Lakeshore Road, within Lake Chelan, Chelan County, Washington, Section 33, Township 29N, Range 21 East of the Willamette Meridian, Water Resource Inventory Area (WRIA) Chelan #47.

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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 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 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 Peter Martinez, and their agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Regional Office, Attn: Federal Permit Coordinator, SEA Program, 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902. Any submittals shall reference Order No. 9201, and Corps No. NWS-2010-514.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology February 9th 2010. The Applicant will be out of compliance with this Order and must reapply with an updated application 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 a Section 404 permit.
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. 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.

8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. 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.
10. 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 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.
11. 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.
12. 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. No Further Impairment of Existing 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). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. Lake Chelan has been identified on the current 303(d) list as exceeding state water quality standards for PCB 1254, PCB 1260, 4,4' DDE. This proposed project shall not result in further exceedances of these standards.

C. Timing:

1. This Order is valid until all May 17th, 2017.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

D. Notification Conditions:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Central Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of dredge and fill at the project site.
2. The Applicant shall provide written notification to Ecology's Central Regional Office Federal Permit Coordinator in annually, writing within fourteen (14) days after completion of dredge and fill.
3. The applicant shall install all mitigation components concurrently with the construction of the pier.
4. The applicant shall submit an as built report to Ecology within 30 days of project completion. The as built report shall include photographs of all of authorized structural components and mitigation.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 9201, Corps Reference No. **NWS-2010-514**, project location, contact and contact's phone number.

E. Water Quality Monitoring and Reporting Conditions:

1. During and immediately after project construction, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance established in WAC 173-201A-200(1)(e)(i). If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Applicant or their contractor shall notify Ecology's Central Regional Office Federal Permit Coordinator at (509) 454-4260 of the exceedances.
2. If the results of the monitoring show that the water quality standards or project performance standards are not being met additional monitoring and mitigation may be required.
3. Any changes to the monitoring requirements must be approved in writing by Ecology.

F. Construction:

1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control, and best management practices suitable to prevent exceedances of state water quality standards (e.g., hay bales, detention areas, silt fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites.

2. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.
3. During clearing and filling at the various project sites, the Applicant shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.
4. No existing shoreline or lake material (i.e., logs, rocks, gravel, cobbles, woody debris or other lakebed material,) shall be used as bulkhead armor, or for any other purposes, except that work described in the JARPA received by Ecology on February 9th 2011.
5. Additional dredge spoils will be deposited upland, according to the plans provided to Ecology prior to the start of construction activity. Dredge spoils are not be allowed to enter OHWM or the wetted perimeter of Lake Chelan.
6. All equipment must be clean and free of oils, hydraulic fluid, and other contaminants prior to entering all areas below the OHWM of Lake Chelan.
7. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
8. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

G. Emergency/Contingency Measures:

1. In the event the Applicant is unable to comply with any of the permit terms and conditions due to any cause, the Applicant shall:
 - (i) Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
 - (ii) Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (509) 575-2490, and within 24 hours to Ecology's Federal Permit Coordinator at (509) 454-4260.
 - (iii) Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

2. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
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. No refueling of equipment shall occur over, or within 100 feet of creeks, rivers, lakes, or wetlands.

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

Contact Information

Please direct all questions about this Order to:

Gary Graff
Department of Ecology

Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, WA 98902
509-454-4260
gary.graff@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>

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

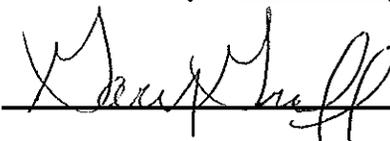
Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

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

DATED this day of 17 May, 2012 at Yakima, Washington.

 FOR JEFF LEWIS

Jeff Lewis, Section Manager
Shorelands & Environmental Assistance Program
Central Regional Office – Ecology
State of Washington

ATTACHMENT A

Carefully read the entire Water Quality Certification Order, sign, date, and return the completed document to Ecology's Central Regional Office, Attn: Gary Graff, Federal Permit Coordinator, SEA Program, 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902

Peter Martinez

Statement of Understanding of Water Quality Certification Order #9201 Conditions

I _____ **have read and understand all conditions** of the Washington State Department of Ecology Section 401 Water Quality Certification Order #9201, and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

I _____, as the **authorized agent or contractor for the construction** at the Peter Martinez property, **have read and understand all of the relevant conditions** of the Washington State Department of Ecology Section 401 Water Quality Certification Order #9201, and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company