



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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November 3, 2011

Mr. Robert Brenner  
Port of Tacoma  
PO Box 1837  
Tacoma WA 98401-1837

RE: Water Quality Certification - Order #8713/Corps Public Notice # NWS-2010-1118-WRD  
Maintenance dredging of the Port of Tacoma Terminals 3 and 4 (Husky Terminal) Blair  
Waterway, Commencement Bay, Tacoma, Pierce County, Washington

Dear Mr. Brenner:

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  
Shorelands & Environmental Assistance Program  
Headquarters Office - Ecology  
State of Washington

by Certified Mail 7009 1410 0002 04001 1798

Enclosure



Mr. Robert Brenner

November 3, 2011

Page 2 of 2

cc: Olivia Romano, Corps  
Andy Comstock, Tacoma-Pierce Co Health Dept.,

ecc: Loree' Randall, Ecology  
Helen Pressley, Ecology  
Laura Inouye, Ecology  
Joyce Mercuri, Ecology  
Alex Callender, Ecology  
Ecyrefedpermits@ecy.wa.gov  
' Bill Rehe, WDFW [William.Rehe@dfw.wa.gov](mailto:William.Rehe@dfw.wa.gov)  
DMMP @dnr.wa.gov

**IN THE MATTER OF GRANTING A ) ORDER #8713**  
**WATER QUALITY ) Corps Reference No. NWS-2010-1118-WRD**  
**CERTIFICATION TO ) Maintenance dredging of the Port of Tacoma**  
**The Port of Tacoma ) Terminals 3 and 4 (Husky Terminal) in Blair**  
in accordance with 33 U.S.C. 1341 ) Waterway, Commencement Bay, Tacoma, Pierce  
(FWPCA § 401), RCW 90.48.120, RCW ) County, Washington  
90.48.260 and Chapter 173-201A WAC )

TO: Mr. Robert Brenner  
Port of Tacoma  
PO Box 1837  
Tacoma WA 98401-1837

On October 14, 2010 the Port of Tacoma 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 June 8, 2011.

The proposed work includes maintenance dredging to remove up to 42,100 cubic yards of sediment from an area 150 feet wide and 2,702 feet long in berthing areas of Husky Terminal which consist of Terminals 3 and 4. All dredging will occur between -46 and -53 feet Mean Lower Low Water (MLLW). The area will be dredged to about -53 feet MLLW, the depth of prior dredge authorization in Blair Waterway, which includes 2 foot allowable overdredge. The proposed dredging area is divided into four dredge material management units (DMMUs).

Up to 12,100 cubic yards of dredged material would be removed from DMMU-1 and up to 3,850 cubic yards of material would be removed from DMMU-3 and placed at the Port of Tacoma's upland disposal area on Parcel 14, Port of Tacoma property. The dredged material for upland disposal would be placed on a barge and allowed to dewater for up to 24 hours. These materials would then be off-loaded from the barge to a truck and either taken to a dewatering cell located on the terminal (Material Rehandling Area), or taken directly to Parcel 14 for upland disposal. Dredged materials dewatered further at the terminal would then be trucked to Parcel 14 when sufficiently dried for transport. A total of 15,950 cubic yards of dredged material would be disposed of on Parcel 14.

Up to 26,150 cubic yards of dredged material would be removed from DMMU-2 (14,200 cubic yards), DMMU-3 (10,250 cubic yards), and DMMU-4 (1,700 cubic yards) and disposed of at the Commencement Bay Disposal Site. Dredging will be done using a barge-mounted dredge with a clamshell bucket.

The purpose of this project is to restore the federally authorized depth of -51 feet MLLW to allow for vessel movement to and from the terminals.

**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 Port of Tacoma 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 #8713 and Corps Reference # NWS-2010-1118-WRD.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on October 14, 2010. 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 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. 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). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup or surface waters or sediments occurring as a result of project construction or operations.

- 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 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% 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 the 150 foot point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.

**C. Dredging and Disposal:**

1. All dredging is to be done using a barge-mounted derrick with a clamshell bucket. **Use of any other type of dredge will require prior approval from Ecology.**
2. Up to 26,150 cy of material from DMMU-2 (14,200 cy), DMMU-3 (10,150 cy) and DMMU-4 (1,700 cy) may be disposed of at the Commencement Bay non-dispersive site. No more than 45% of the area represented by site HT-03-01 may be included.

The remaining 15,950 cy from DMMU 1 (12,100 cy) and DMMU-3 (3,850 cy) will be disposed of upland on the Port of Tacoma's Parcel 14. **Any change in disposal location requires prior approval by Ecology.**

3. The sediment to be disposed of at Parcel 14 or at the Material Rehandling Area will first be allowed to dewater on a barge. Dewatering liquid shall be treated through the placement of filter fabric in the scuppers or another equivalent method before it is discharged back into Commencement Bay. The barge shall not be overfilled causing dewatering water to flow over the sides of the barge prior to any treatment. Discharge of any further water from sediment in the upland sites shall be treated prior to discharge into waters of the state.
4. 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.
5. 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.
6. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
7. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
8. 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 1 week prior to the pre-construction meeting.

9. Prior to each dredging cycle, the Applicant shall contact the PSDDA 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 from February 2016 to 2018. Contact the DMMO for a possible extension of up to 2 years if necessary.

**D. 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 5 years from date of issuance. Continuing this project beyond the 5 year term of this Order will require separate certifications every 5 years.

**E. 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 dredging each dredging season and within 14 days after completion of dredging each season. Notification should be made using all the information required in Condition A2.

**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.

**G. Appeal Process:**

**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><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>

## CONTACT INFORMATION

Please direct all questions about this Order to:

Helen Pressley  
Department of Ecology SEA Program  
PO Box 47600  
Olympia WA 98504-7600  
360-407-6076  
hpre461@ecy.wa.gov

## MORE INFORMATION

### **Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://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>

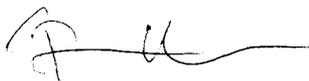
### **Chapter 173.204 WAC – Sediment Management Standards**

[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.html)

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

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

DATED November 3, 2011 at Olympia, Washington.



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



**ATTACHMENT A**

**Port of Tacoma  
Port of Tacoma Berths 3 & 4 (Husky Terminal) Maintenance Dredge  
Water Quality Certification Order #8713**

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

I have read and understand the conditions of Order #8713 Section 401 Water Quality Certification for the Port of Tacoma Berths 3 & 4 (Husky Terminal) Maintenance Dredge. 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

