



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

June 5, 2012

Port of Tacoma
Attn: Mr. Tony Warfield
PO Box 1837
Tacoma WA 98401-1837

RE: Water Quality Certification - Order #9223/Corps Public Notice # NWS-2010-1386-WRD
Port of Tacoma Stormwater Outfall and Tide Structure Maintenance, Repair and
Replacement in Tacoma, Pierce County, Washington

Dear Mr. Warfield:

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

by Certified Mail 7009 0820 0001 09056 0724



Port of Tacoma, Order #9223

June 5, 2012

Page 2 of 2

cc: Olivia Romano, Corps
Chris Waldbillig, WDFW

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

IN THE MATTER OF GRANTING A)	ORDER #9223
WATER QUALITY)	Corps Reference No. NWS-2010-1386-WRD
CERTIFICATION TO)	Programmatic maintenance, repair, and tidegate
Port of Tacoma)	installation of 56 existing stormwater outfalls
in accordance with 33 U.S.C. 1341)	throughout the Port of Tacoma property in
(FWPCA § 401), RCW 90.48.120, RCW)	Tacoma, Pierce County, Washington
90.48.260 and Chapter 173-201A WAC)	

TO: Port of Tacoma
 Attn: Mr. Tony Warfield
 PO Box 1837
 Tacoma WA 98401-1837

On February 28, 2011 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 December 30, 2011.

The work includes the maintenance of 56 existing stormwater outfall, (14 are located in Hylebos Waterway, 29 in the Blair Waterway, and 13 in Sitcum Waterway) over a period of 5 years. Four general types of activities are proposed:

- Routine removal of biological growth including barnacles, mussels, plants, and other debris;
- Repair/replacement of tidegate parts including removal and replacement of small amounts of riprap;
- Replacement of existing failed tidegates; and,
- Installation of tidegates on existing outfalls where a tidegate is missing.

These proposed activities will be done by hand, using hand tools, when needed a mobile crane (located in uplands) will be used to lift the tidegate into position, and removal and replacement of small amounts of existing bank armoring may be required to allow for work. Proposed tidegates for both replacement and installation are rubberized “duckbill” check valves.

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 #9223 and Corps Reference # NWS-2010-1386-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 February 28, 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 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).
 - 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 shall be considered to be an exceedance of the 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. Repair and Reconstruction:

1. All work shall be done so as to minimize turbidity, erosion, and other water quality impacts.
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 work shall be done in the dry whenever possible.
4. No excavation, construction or repairs using large scale vehicles shall be conducted for this project. Hand tools shall be used and cranes, if necessary, will be stationed upland of the outfalls within the developed areas.
5. 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.
6. Stockpiling material below the Ordinary High Water Mark (OHWM) is not allowed.
7. Where possible, work shall be prioritized by the severity of the problem so that water quality can be protected.

E. 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.

F. 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 maintenance, repairs, or installation of new tide gates and within 14 days after completion of work at the last project site every year this permit is in force. Notification should be made using all the information required in Condition A2.
2. The Applicant shall provide to Ecology a yearly report by January 31 of the following year. This report shall include details of the outfalls worked on in the previous year including photos, details of any problems and how they were solved, and a list of the outfalls planned to be cleaned in the next calendar year.

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, 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

DATED: June 5, 2012 at Olympia, Washington.



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

ATTACHMENT A

**Port of Tacoma
Programmatic stormwater outfall repairs
Water Quality Certification Order #9223**

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

I have read and understand the conditions of Order #9223 Section 401 Water Quality Certification for programmatic stormwater outfall repairs
. 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

