



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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December 29, 2011

Kyle Griffith, Pier Manager  
Miners Landing (Pier 57)  
1301 Alaskan Way  
Seattle, WA 98101

RE: Water Quality Certification Order #8919 for U.S. Army Corps of Engineers Public Notice #NWS-2011-495, Pier 57 Ferris Wheel Installation Project, in Seattle, King County, Washington

Dear Mr. Griffith:

On July 19, 2011, Miners Landing (Pier 57) submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed Pier 57 Ferris Wheel Installation project.

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.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Erik Stockdale, Unit Supervisor  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

ES:rrp:cja  
Enclosure

By certified mail: 7011 0470 0003 3720 9312

cc: Jacalen Printz, U.S. Army Corps of Engineers  
Kristin Noreen, Northwest Environmental Consulting, LLC  
Joe Miles, Washington Department of Natural Resources  
Laura Arber, Washington Department of Fish and Wildlife  
e-cc: Joe Burcar – NWRO, Loree' Randall – HQ, Raman Iyer – NWRO  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)



**IN THE MATTER OF GRANTING A ) ORDER #8919**  
**WATER QUALITY ) Corps Reference #NWS-2011-495**  
**CERTIFICATION TO ) Pier 57 Ferris Wheel Installation Project; Elliott**  
**MINERS LANDING (PIER 57) ) Bay, Seattle, King County, Washington.**  
in accordance with 33 U.S.C. 1341 )  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: Kyle Griffith, Pier Manager  
Miners Landing (Pier 57)  
1301 Alaskan Way  
Seattle, WA 98101

On July 19, 2011, Miners Landing (Pier 57) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A joint 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 August 8, 2011, and a revision was issued on October 31, 2011.

The ferris wheel installation proposal includes:

- Removal of the deck surface.
- Installation of 50 concrete-filled 36-inch-diameter steel piles and 18 16-inch-diameter steel piles.
- Removal of approximately 230 existing creosote-treated wood piles.
- Installation of a concrete cap foundation, along with seismic joints, pilasters, and asphalt-paved decking.
- Movement of stairs on the pier edge, lowering of the pedestrian walkway, and installation of a ticket booth, queing area, and associated amenities.
- Installation of a ferris wheel on the waterward end of the pier.
- Installation of two navigation buoys anchored by chain to anchors.

The project is located at 1301 Alaskan Way, Seattle, King County, Washington, Elliott Bay, Section 31, T. 24 N., R. 4E., WRIA 8.

#### **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:**

- A1. For purposes of this Order, the term "Applicant" shall mean Miners Landing (Pier 57) and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #8919 and Corps Reference #NWS-2011-495.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 19, 2011. 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.
- A4. 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.
- A5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual Section 404 permit.

- A6. 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.
- A7. 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.
- A8. 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.
- A9. 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 or mitigation sites.
- A10. 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.
- A11. 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 Condition:**

- B1. Elliott Bay is classified as "Excellent Quality" and the criteria of that class apply except as specifically modified by this Order. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i).
- B2. The Applicant shall conduct in-water construction water quality sampling and monitoring as described in *Technical Memorandum from Kristin Noreen, Northwest Environmental Consulting, LLC, to Rebekah Padgett, Washington Dept. of Ecology, Subject: Water Quality Protection and Monitoring Plan, Project: Pier 57 Ferris Wheel*, and dated December 22, 2011, or as modified by this Order or revised and approved by Ecology.

- B3. Detection of exceedances: Water quality standards for turbidity in “Excellent Quality” waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-210(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- B3. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- B4. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #8919, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- i. A description of the nature and cause of exceedance.
  - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
  - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.

**C. Conditions for Construction Activities:**

**General Conditions:**

- C1. Construction stormwater, sediment, and erosion control best management practices (BMPs; e.g., filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- C2. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.

- C3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- C4. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- C5. 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.
- C6. Clean Fill Criteria: Applicant shall ensure that fill (sand) placed for the proposed project does not contain toxic materials in toxic amounts.
- C7. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.
- C8. During project demolition or construction, a containment boom and absorbent pads 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.
- C9. The Applicant shall use tarps or other containment method when cutting or drilling over water to prevent debris, sawdust, concrete and asphalt rubble, and other materials from entering the water.
- C10. During construction, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
- C11. All manmade debris that has been deposited below the Ordinary High Water Line within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
- C12. Project activities shall be conducted to minimize siltation of the beach area and bed.
- C13. The Applicant shall operate the barge(s) and tug in deep water so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
- C14. Barges shall not be allowed to ground-out during construction.
- C15. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet

concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.

- C16. Asphalt shall be prevented from entering waters of the state.
- C17. Water from the hollow steel piles shall be pumped into Baker tanks on the barge deck or on uplands and allowed to settle. This water shall not be discharged to Elliott Bay if it does not meet state water quality standards.
- C18. Any sediment removed from the hollow steel piles shall be pumped into a sediment waste container located on the barge deck or on uplands. The container scuppers shall be lined with filter fabric. Once the container is filled, the scuppers shall be closed.
- C19. The barge shall be lined with impermeable sheeting with straw bales and filter fabric lining the barge scuppers in order to contain all sediment. Sediment shall be disposed of at an appropriate upland location.

**Piling Removal Conditions:**

- C20. Approximately 230 existing creosote-treated timber piles shall be removed from marine waters. All piling shall be removed by vibratory extraction. In the event these pilings break off during extraction, the remaining piling shall be cut below the mudline.
- C21. Piles, stubs, debris, and all associated excavated sediments shall be contained and prevented from entering waters of the state.
- C22. Piles removed from substrate: the pile shall be moved immediately from the water into the barge or onto uplands. 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.
- C23. Work surface on the barge deck or on uplands shall include a containment basin for piles and any 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.
- C24. The piles and any sediment removed during pulling of the piling shall be disposed of at an approved upland disposal site.

**Pile Driving:**

- C25. The new pilings shall be steel.
- C26. The steel pilings shall be installed using a vibratory hammer whenever possible. An impact hammer may be used to proof pile, if needed.

**D. Conditions for Operational Activities:**

- D1. The Applicant shall develop and implement a Litter Control Plan to prevent litter from entering state waters and to address cleanup or removal of litter entering state waters.

**E. Emergency/Contingency Measures:**

- E1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- E2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- E3. 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.
- E4. 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 shall immediately take the following actions:
- a. Cease operations at the location of the violation or spill.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
  - d. 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.

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.

**F. Timing Requirements**

F1. This Order expires five (5) years from the date of issuance of the Corps permit.

**G. Reporting and Notification Requirement Conditions**

G1. The Applicant shall provide to Ecology's 401/CZM Federal Permit Manager a copy of the final Corps permit within 2 weeks of receipt of the permit. A copy shall be submitted per condition A2 above.

G2. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #NWS-2011-495, Order #8919 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

**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
<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>

  
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Erik Stockdale, Unit Supervisor  
Wetlands/401 Unit  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

12-29-2011  
December 29, 2011

**ATTACHMENT A**

**MINERS LANDING (PIER 57)  
PIER 57 FERRIS WHEEL INSTALLATION PROJECT  
Water Quality Certification Order #8919**

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

I have read and understand the conditions of Order #8919 Section 401 Water Quality Certification for the Pier 57 Ferris Wheel Installation Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company