STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
*P.O. Box 47600 • Olympia, Washington 98504-7600*
*(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006*

May 7, 2012

Mr. Tim Cuchna and Ms. Cynthia Lahti
Post Office Box 817
Stanwood, Washington 98292

RE: Water Quality Certification Order No. **9155** for Corps Nationwide Permit 10, NWP-2011-767 for the Cuchna-Lahti Mooring Buoy, Utsalady Bay, Island County, Washington

Dear Mr. Cuchna and Ms. Lahti:

On April 9, 2012 Mr. Cuchna and Ms. Lahti submitted a Joint Aquatic Resource s Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification under the federal Clean Water Act for the proposed Cuchna-Lahti Mooring Buoy project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and Nationwide Permit 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.

On April 9, 2012, Mr. Cuchna and Ms. Lahti submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Mr. Cuchna and Ms. Lahti's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon compliance with all applicable enforceable policies of the CZMP, including Section 401 of the CWA.

If you have any questions, please contact Jessica Moore at 360-407-7421. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

By Certified Mail 7009 0820 0001 09056 0922

Enclosure

cc: Mr. Russ Holmes, Island Botanical Service
Mr. Lawrence Baum, Camano Sail and Power

e-cc: Catherine Blackwell, U.S. Army Corps of Engineers, Seattle District
ecyrefedpermits@ecy.wa.gov
Loree' Randall – Ecology, HQ-SEA

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| **IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO MR. TIM CUCHNA AND MS. CYNTHIA LAHTI** in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC | ) | **ORDER # 9155**<br>**Corps Reference No. NWS-2011-767**<br>**Nationwide Permit 10**<br>Non-commercial, single-boat mooring buoy in Utsalady Bay at Camano Island, Island County. |

TO: Mr. Tim Cuchna and Ms. Cynthia Lahti
Post Office Box 817
Stanwood, Washington 98292

On April 9, 2012 Mr. Tim Cuchna and Ms. Cynthia Lahti submitted a 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 Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on April 14, 2012.

The proposed project entails the installation of a non-commercial, single-boat mooring buoy in Utsalady Bay, associated with a residence located at 89 East Utsalady Road, Camano Island, Island County, Washington 98282, Section 19 Township 32N, Range 3E, WRIA# 6, Island County.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, 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 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 Mr. Tim Cuchna and Ms. Cynthia Lahti and their agents, assignees and contractors.

2. All submittals required by this Order shall be sent to Ecology's HQ, Attn: Federal Project Coordinator, PO Box 47600, Olympia, WA 98504 or via e-mail (preferred), if possible, to the ecyrefedpermits@ecy.wa.gov. The submittals shall be identified with Order No. 9155 and Corps Reference #NWS-2011-767.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 9, 2012 unless otherwise authorized by Ecology.

4. Within 30 days of receipt of any updated information, 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. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.

6. The Applicant shall keep copies of this Order 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 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.

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. 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.

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. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

**B. Timing Requirements**

1. This Order will expire two (2) years from the date of issuance of the Corps Nationwide Permit Authorization letter.

**C. Water Quality**

1. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200.

## 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**<br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503<br><br>**Pollution Control Hearings Board**<br>1111 Israel RD SW<br>STE 301<br>Tumwater, WA 98501 | **Department of Ecology**<br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608<br><br>**Pollution Control Hearings Board**<br>PO Box 40903<br>Olympia, WA 98504-0903 |

## SIGNATURE

May 7 2012

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