



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 17, 2012

Port of Willapa Harbor
Attn: Ms Rebecca Chaffee
1725 Ocean Ave.
Raymond WA 98577

RE: Water Quality Certification - Order #9606/Corps Public Notice # NWS-2012-157 –
Maintenance dredging of the Bay Center Marina, Mariculture Docks, and the Federal
Navigation Channel in the Palix River, Pacific County, Washington

Dear Ms. Chaffee:

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 7010 2780 0000 2503 4294

Enclosure



Order # 9606
Corps Ref # NWS -2012-157
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cc: Ron Wilcox, Corps
David Kendall, DMMP Corps

ecc: Loree' Randall, Ecology
Helen Pressley, Ecology
Laura Inouye, Ecology
Rick Mraz, Ecology SWRO
DMMP@dnr.wa.gov
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #9606
WATER QUALITY) Corps Reference No. NWS-2012-157
CERTIFICATION TO) Maintenance dredging of the Bay Center Marina,
the Port of Willapa Harbor) Mariculture Docks, and the Federal Navigation
in accordance with 33 U.S.C. 1341) Channel in the Palix River, Pacific County,
(FWPCA § 401), RCW 90.48.120, RCW) Washington
90.48.260 and Chapter 173-201A WAC)

TO: Port of Willapa Harbor
Attn: Ms Rebecca Chaffee
1725 Ocean Ave.
Raymond WA 98577

On February 27, 2012, the Port of Willapa Harbor 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 October 17, 2012.

The project involves the ongoing maintenance dredging of the Bay Center Marina and the Federal Entrance Channel between channel station 0+00 and 17+00, and the Bay Center Mariculture Dock area located approximately 2,300 feet south of the marina channel on the westerly bank of the Palix River. The marina and channel maintenance dredging would occur to a maximum depth of minus 11-feet Mean Lower Low Water (MLLW) including an allowable overdredge depth limit of one additional foot.

The Mariculture Dock maintenance dredging would occur to a maximum depth of minus 8-feet MLLW. The dredging will be accomplished with a hydraulic suction dredge utilizing a cutter head and 12-inch diameter high-density polyethylene (HDPE) discharge pipeline owned and operated by the Port of Willapa Harbor. The dredge spoils will be pumped via a pipeline and discharged to the flow lane immediately to the east of the marina within the Palix River. The same flow lane discharge location will be utilized by both dredging sites.

Estimated Dredge Volumes and Dates below:

<u>Year:</u>	<u>Marina/Channel:</u>	<u>Mariculture Dock:</u>	<u>Total:</u>
2012/2013	25,000 CY	1,000 CY	26,000
2013/2014	20,000 CY	-----	20,000
2018	15,000 CY	1,000 CY	16,000CY

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 Willapa Harbor 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 #9606 and Corps Reference # NWS-2012-157.

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 27, 2012. 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. Turbidity Mixing Zone:

1. This Order authorizes a mixing zone for turbidity as follows:
 - i. The distance granted for the temporary turbidity mixing zone is a 1,000 foot circle around the in-water activity.
 - ii. Visible turbidity anywhere at the 1,000 foot point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.
 - iii. The mixing zone is only authorized during the work window identified in the most current HPA (or Biological Opinion) issued for this project.

C. Water Quality Monitoring

1. The Applicant shall submit a water quality monitoring plan to Ecology per Condition A2 at least 14 days prior to dredging. This plan shall be approved by Ecology prior to any in-water work. The plan shall include at a minimum the following information:
 - a. Name and contact information of the person or firm responsible for monitoring;
 - b. Map of sample locations including background, (1,000 feet upcurrent from the activity), early warning (750 feet downcurrent) and point of compliance (1,000 feet downcurrent) all at or near the surface and bottom depths. No mid-depth measurement is required.
 - c. Parameter(s) to be monitored: turbidity, salinity, dissolved oxygen (DO);
 - d. Sample method;
 - e. Frequency, and
 - f. Include the steps that will be taken should the monitoring results indicate an exceedance has occurred. The amount of the exceedance and the reason for the exceedance shall also be reported.
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. Dredging and Disposal:

1. All dredging is to be done using a hydraulic suction dredge with a cutter head and 12-inch diameter high-density polyethylene (HDPE) discharge pipeline owned and operated by the Port of Willapa. **Use of any other type of dredge requires preapproval from Ecology.**

2. All dredged material will be pumped via a pipeline to flowlane disposal within the Palix River east of the marina and mariculture areas. **Use of any other type of disposal method or location requires preapproval by Ecology.**
3. Any debris (larger than 2 feet in any dimension) found floating in the dredging or disposal areas shall be removed.
4. 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.
5. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
6. 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 2 weeks prior to the pre-construction meeting.
7. Prior to each dredging cycle, the Applicant shall contact the DMMP 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 low in potential for contamination and the recency determination extends until July 2018. Contact the DMMO for a possible extension on this permit if necessary.

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 8 years from date of issuance. Continuing this project beyond the 8 year term of this Order will require separate certifications every 8 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 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.

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 both 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 Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Helen Pressley
Department of Ecology
SEA Program
PO Box 47600
360-407-6076
hre461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use 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

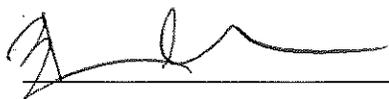
www.ecy.wa.gov/biblio/wac173204.html

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

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated December 17, 2012 at Olympia, Washington



Sincerely,

Brenden McFarland, Section Manager
Shorelands & Environmental Assistance Program
Headquarters Office - Ecology

ATTACHMENT A

**Port of Willapa Harbor
Bay Center Maintenance Dredge
Water Quality Certification Order #9606**

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

I have read and understand the conditions of Order #9606 Section 401 Water Quality Certification for the Bay Center 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

