STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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August7, 2012

John and Patricia Rogers
1025 Lake Street South
Kirkland, Washington 98033

RE: Water Quality Certification Order No. **9443** for Corps Nationwide Permits 3 and 27, NWS-2012-161 for the Rogers Piling Replacement project, Lake Washington, King County

Dear Mr. and Ms. Rogers:

On July 6, 2012, you submitted a Joint Aquatic Resources 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 Rogers Piling Replacement, Bulkhead Filter Fabric Replacement and Nearshore Habitat Restoration 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 July 6, 2012, you 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 your 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
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

by Certified Mail 7010 2780 0000 2503 4157

Enclosure

e-cc: Peter Zuvela, Waterfront Construction, Inc.
David Shaeffer, U.S. Army Corps of Engineers, Seattle District
Loree' Randall, Ecology, HQ-SEA
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO JOHN AND PATRICIA ROGERS in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))))	**ORDER # 9443** **Corps Reference No. NWS-2012-161** **Nationwide Permits 3 and 27** Maintain existing pier and place spawning gravel and boulders in Lake Washington located in King County, Washington.

TO: John and Patricia Rogers
1025 Lake Street South
Kirkland, Washington 98033

On July 6, 2012, John and Patricia Rogers 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 July 10, 2012.

The proposed project entails replacing two timber piles with steel piles, replacing the bulkhead filter fabric, and installing 2- and 3 man boulders, and placing spawning gravel between the boulders and bulkhead in Lake Washington at 1025 Lake Street South, Kirkland, King County, Washington 98033, Section 08, Township 25, Range 5, WRIA# 8, Cedar-Sammamish.

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 John and Patricia Rogers, 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. 9443 and Corps Reference #NWS-2012-161.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 6, 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.

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. Water Quality

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

C. Timing Requirements

1. This Order will expire on May 17, 2014.

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 **Pollution Control Hearings Board** 1111 Israel RD SW STE 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

Dated August 7, 2012 at Olympia, Washington

SIGNATURE

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