



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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August 19, 2013

Port of Olympia  
Ms. Alex Smith  
915 Washington St NE  
Olympia WA 98501

RE: Water Quality Certification - Order #9999/Corps Public Notice # NWS-2012-1098 --  
Dredging of up to 39,000 cubic yards of sediment from Berths 1, 2, and 3, and a small  
area at the entrance to Swantown Marina and the boat haulout area.

Dear Ms. Smith:

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 3662

Enclosure



Order #9999 NWS-2012-1098  
Port of Olympia  
August 19, 2013

cc: Darren Habel, Corps  
Margie Schirato, WDFW

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

**IN THE MATTER OF GRANTING A ) ORDER #9999**  
**WATER QUALITY ) Corps Reference # NWS-2012-1098**  
**CERTIFICATION TO ) Maintenance dredging of up to 39,000 cubic**  
**Port of Olympia ) yards of sediment from the Swantown marina**  
in accordance with 33 U.S.C. 1341 ) entrance and dredging of Berths 1, 2, and part of  
(FWPCA § 401), RCW 90.48.120, RCW ) 3 navigation channels with upland disposal of all  
90.48.260 and Chapter 173-201A WAC ) sediment at Olympia, Thurston County,  
 ) Washington

TO: Port of Olympia  
Ms. Alex Smith  
915 Washington St. NE  
Olympia WA 98501

On October 5, 2012 the Port of Olympia 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 February 22, 2013.

The Port of Olympia proposes to dredge up to 36,000 cubic yards (cy) of sediment from the Port's Marine Terminal at Berths 1, 2 and part of 3. In addition, the Port proposes to dredge up to 3,000 cy of material from the Swantown Boatworks haulout site. All 39,000 cy of material will be disposed of at an approved upland facility. Dredging will be done using either a crane or an excavator-operated clamshell bucket mounted on a barge. The project is a one-time maintenance event, with a possible clean-up pass in the season following the initial dredge event.

At the Marine Terminal Berths 1, 2, and 3, a "keyway" extending 20 feet from the berth face will be dredged 2 feet deeper (-42 ft) than the rest of the maintenance dredge area (-40 ft). This area is meant to contain material sloughing from under the dock face. The Port will dredge the keyway in the second dredge season if either the material sloughing from the pier face exceeds the authorized -38 ft depth or if the required sand placement on top of the sloughed material will exceed the authorized -38 ft depth. The entire berth dredge area will be covered with a minimal 6 inch clean sand cover (nominal 9-12 inch).

#### **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 Olympia 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 #9999 and Corps Reference # NWS-2012-1098.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on October 5, 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. 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 water is 150 feet radially from the in-water activity. Turbidity occurring outside the point of compliance that is more than 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% 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 the 150 ft point of compliance of the activity and/or the disposal location shall be considered to be an exceedance of the standard.

**C. Water Quality Monitoring Plan:**

1. The Applicant shall submit a final water quality monitoring plan (WQMP) to Ecology 14 days prior to dredging. If there are any alterations in the dredging plans the WQMP shall be updated and provided to Ecology prior to any in-water work.
2. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal permit coordinator (condition A2). 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 crane or an excavator-operated clamshell bucket. **Use of any other type of dredge requires preapproval from Ecology.**
2. All dredged material will be placed on haul barge with sidewalls for gravity dewatering using silt fabric fencing over straw bales and then transferred upland. Direct placement of sediment into haul trucks or rail containers/gondolas from the haul barge is the preferred option. The preferred option is the approach used in the interim cleanup, and was shown to be successful in meeting water quality standards. No stockpiles are allowed unless authorized by Ecology. **Use of any other type of disposal method or location requires preapproval by Ecology and may require an amendment to this Order.**
3. Sediment will be taken to an Ecology-approved upland disposal site.
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. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
6. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
7. In order to meet state antidegradation standards, a minimal 6 inch clean sand cover (nominal 9-12 inch) will be placed over the Berth 1 through 3 areas.
  - a. The sand cover should be immediately placed in the non-keyway dredged area following the first dredging event.
  - b. The sand cover will be placed no later than the end of the second dredge season (2014/15 construction window) regardless of whether or not dredging occurs in the second season.

8. The Swantown Boatworks haulout does not require a sand cover.
9. Details on the timing of bathymetric surveys, cover placement, and additional dredging in the keyway area will be determined in consultation with the DMMP agencies.
10. 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 **30 days** prior to the pre-construction meeting.
11. 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 high in potential for contamination and the recency determination extends until February, 2015. Contact the DMMO for a possible extension on this permit if necessary.

**E. Conditions for Construction Activities:**

1. No dredge material stockpiles are allowed on-site unless authorized.
2. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.

**F. 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 until August 19, 2017.

**G. 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 upland work or dredging and within 14 days after completion of construction or dredging at the project site. Notification should be made using all the information required in Condition A2.

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

#### CONTACT INFORMATION

Please direct all questions about this Order to:

Helen Pressley  
Department of Ecology  
Headquarters, SEA Program Box 47600  
Olympia WA 98504-7600  
360-407-6076  
Hpre461@ecy.wa.gov

#### MORE INFORMATION

**Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://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>

Order #9999, Corps No.NWS-2012-1098  
Port of Olympia Berth Maintenance  
Swantown Haulout Dredging  
August 19, 2013  
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**Chapter 173.204 WAC – Sediment Management Standards**

[www.ecy.wa.gov/biblio/wac173204.html](http://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](http://www.ecy.wa.gov/biblio/wac173201A.html)

**SIGNATURE**

Dated this August 19, 2013, at the Department of Ecology, Lacey Washington



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

**ATTACHMENT A**

**Port of Olympia  
Port of Olympia Berth Maintenance and Swantown Haulout Dredging  
Water Quality Certification Order #9999**

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

I have read and understand the conditions of Order #9999 Section 401 Water Quality Certification for the Port of Olympia Berth Maintenance and Swantown Haulout Dredging. 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

