



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

April 17, 2007

REGISTERED MAIL
RB 670 438 302 US

Sound Transit
Attn: Chris Townsend
401 South Jackson Street
Seattle, WA 98104

RE: Water Quality Certification Order #4241 for U.S. Army Corps of Engineers (Corps) Nationwide Permit #6, No. 200700416, University Link Geotechnical Borings, Lake Washington Ship Canal, Montlake Cut, Seattle, King County, Washington

Dear Mr. Townsend:

On April 6, 2007, Sound Transit submitted a request to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the University Link Geotechnical Borings project. The project entails drilling two in-water borings to collect geotechnical information for design of an electric light rail tunnel under the Montlake Cut portion of the Lake Washington Ship Canal, in Seattle, King County, Washington. The U.S. Army Corps of Engineers issued a Nationwide Permit #6, Survey Activities, on April 16, 2007, for the proposed project. Ecology issued a public notice for the project on April 10, 2007.

On behalf of the State of Washington, Ecology certifies that the work described in the request 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.

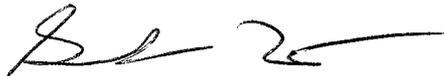
On April 10, 2007, Sound Transit submitted to Ecology a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Under Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Sound Transit's determination that this work is consistent with the approved Washington State CZMP. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the federal Water Pollution Control Act.



Sound Transit
University Link Geotechnical Borings-401 Certification, Order #4241
Page 2
April 17, 2007

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

Sincerely,



Geoff Tallent, Section Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology

GT:rrp:cja

Enclosure

cc: Jack Kennedy, U.S. Army Corps of Engineers

e-cc: Penny Keys, HQ
Loree' Randall, HQ

IN THE MATTER OF GRANTING A) ORDER # 4241
WATER QUALITY) Corps Reference No. 200700416
CERTIFICATION TO) University Link Geotechnical Borings, Lake
Sound Transit) Washington Ship Canal, Montlake Cut, Seattle,
in accordance with 33 U.S.C. 1341) King County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Sound Transit
Attn: Chris Townsend
401 South Jackson Street
Seattle, WA 98104

On April 6, 2007, Sound Transit submitted a request to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. On April 10, 2007, Ecology issued a public notice for the above-referenced project under the provisions of Chapter 173-225 WAC.

The proposed project entails drilling two in-water borings to collect geotechnical information for design of an electric light rail tunnel under the Montlake Cut portion of the Lake Washington Ship Canal, in Seattle, King County, Washington. The project is located in WRIA #8.

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 reviewed this application for conformance with:

1. 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, 303, 306 and 307).
2. 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.
3. 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:

- A1. For purposes of this Order, the term "Applicant" shall mean Sound Transit, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Federal Project Manager, Shorelands and Environmental Assistance Program, 3190 160th Avenue SE, Bellevue, WA 98008. Any submittals shall reference Order No. 4241 and Corps No. 200700416.
- A3. This Order limits all work to that described in the 401 Certification request Ecology received on April 6, 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the request is voided by subsequent changes to the project not authorized by this Order.
- A4. Within 30 days of receipt of an updated request, 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 does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- 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. 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.
- A10. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Timing Requirements

- B1. This Order is valid for the duration of the Nationwide Permit authorization issued by the Corps for this project.

C. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

*For additional information: Environmental Hearings Office Website:
<http://www.eho.wa.gov>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated April 17, 2007 at Bellevue, Washington.



Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington