



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 8, 2007

REGISTERED MAIL
RB 670 438 466 US

Hat Island Community, Inc
Mr. Chuck Motson
3616 Colby Ave PMB
Everett WA 98201

RE: Water Quality Certification Order #4442 and Coastal Zone Management Consistency Determination for U.S. Army Corps of Engineers (Corps) Reference # NWS-2007-485-NO, Hat Island Geotech Borings, Possession Sound, Snohomish, Washington.

Dear Mr. Motson:

On May 16, 2007, the Washington State Department of Ecology (Ecology) received a Joint Aquatic Resources Permit Application (JARPA) from Hat Island Community, Inc. requesting a Section 401 Water Quality Certification for the Hat Island Geotechnical Borings. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on May 31, 2007.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the original JARPA submitted on May 16, 2007, and in the public notice (May 31, 2007) 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 May 22, 2007, Ecology received a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP) form from Hat Island Community Inc. for this project. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Hat Island Community Inc.'s determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the Hat Island Community, Inc.'s compliance with all applicable enforceable policies of the CZMP, including Section 401 of the CWA.



Hat Island, Community Inc.

June 6, 2007

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If you have any questions, please contact Lori Enlund at (425) 649-7271 or
LENL461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures
described in the Order.

Sincerely,



Geoff Tallent
Northwest Regional Office
Shorelands and Environmental Assistance Program

GT:lce:cja

Enclosure

cc: Susan Glenn, U.S. Army Corps of Engineers
Jon Houghton, Pentec Environmental

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

IN THE MATTER OF GRANTING A)	ORDER #4442
WATER QUALITY)	Corps Reference # NWS-2007-485-NO
CERTIFICATION TO)	To obtain two geotechnical borings from the
Hat Island Community, Inc)	upper beach near the entrance to the Hat Island
in accordance with 33 U.S.C. 1341)	Marina located in Snohomish County,
(FWPCA § 401), RCW 90.48.120, RCW)	Washington.
90.48.260 and Chapter 173-201A WAC)	

TO: Hat Island Community, Inc
 Mr. Chuck Motson
 3616 Colby Ave PMB
 Everett WA 98201

On May 16, 2007, the Hat Island Community, Inc 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 of Chapter 173-225 WAC on May 31, 2007.

The proposed project entails obtaining two geotechnical borings from the upper beach near the entrance to the Hat Island Marina at Possession Sound Snohomish County Washington. Section 08, Township 29N, Range 04E, WRIA# 07.

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, 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:

- A1. For purposes of this Order, the term "Applicant" shall mean Hat Island Community, Inc, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to the Washington State Department of Ecology, Northwest Regional Office, Attn: 401/CZM Federal Permit Assistant, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order No. 4442 and Corps No. NWS-2007-485-NO.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 16, 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
- A4. 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.
- 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 the 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 until though May 10, 2009.

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.

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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 June 8, 2007 at Bellevue, Washington.



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