STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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June 28, 2007

REGISTERED MAIL
RB 252 946 404 US

Ellie Ziegler
Washington State Ferries
2901 3rd Ave, 5th Floor
Seattle, WA 98121-1042

RE: Water Quality Certification Order No. 4490 and for Corps Public Notice No. 200700774, to drill 6 geotechnical borings near the Orcas Island Ferry Terminal located in San Juan County, Washington.

Dear Ms. Ziegler:

On June 6, 2007 the Washington State Ferries submitted a Joint Aquatic Resource 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 geotechnical borings near the Vashon Island Ferry Terminal.
The project proposes to drill 6 geotechnical exploratory borings to determine the depth and composition of the underlying material and substrate within the project limits. These tests are associated with the preliminary design work that is currently underway for the Vashon Island Ferry Terminal. Ecology issued a public notice on June 8, 2007 for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice 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.

If you have any questions, please contact Kerry Carroll, Ecology's Federal Project Coordinator for this project at 360-407-7503 or via e-mail at kstr461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosure

e-cc: Jack Kennedy – Corps of Engineers
Ellie Ziegler – WA Ferries
Penny Keys – HQ
Loree' Randall – HQ
Bob Penhale - WQ

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Washington State Ferries in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER #4490** **Corps Reference #200700774** Six geotechnical borings in the offshore area from the slip and near the floating dolphin structures at the Vashon Island Ferry Terminal located in King County, Washington.

TO: Washington State Ferries
Ellie Ziegler
2901 3rd Ave, 5th Floor
Seattle, WA 98121-1042

On June 6, 2007 the Washington State Ferries 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 June 8, 2007.

The Vashon Island Geotechnical Borings Project is near the Vashon Island Ferry Terminal at the North end of Vashon Island in Colvos Passage, at Section 6, Township 23, Range 3E, in King County, Washington. The project proposes to drill 6 geotechnical exploratory borings to determine the depth and composition of the underlying material and substrate within the project limits. These tests are associated with the preliminary design work that is currently underway for the Vashon Ferry Terminal Project.

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 Washington State Ferries, and its agents, assignees and contractors.

A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters, Attn: Federal Project Coordinator, PO Box 47600, Olympia, WA 98503-7600. Any submittals shall reference Order #4490 and Corps #200700774.

A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 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 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 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 March 18, 2012.

C. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearing Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearing Board.		
Mail appeal to: The Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903	OR	Deliver your appeal in person to: The Pollution Control Hearings Board 4224 – 6th Ave SE Rowe Six, Bldg 2 Lacey, WA 98503
2. To serve your appeal on the Department of Ecology.		
Mail appeal to: The Department of Ecology Appeals Coordinator P.O. Box 47608 Olympia, WA 98504-7608	OR	Deliver your appeal in person to: The Department of Ecology Appeals Coordinator 300 Desmond Dr SE Lacey, WA 98503
3. And send a copy of your appeal packet to:		
Kerry Carroll Department of Ecology P.O. Box 47600 Olympia, WA 98503-7600		

For additional information: Environmental Hearings Office Website: http://www.eho.wa.gov
To find laws and agency rules: Washington State Legislator Website: http://www1.leg.wa.gov/CodeReviser

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 28, 2007 at Lacey, Washington.

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program