



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

March 14, 2006

**REGISTERED MAIL**  
**RR 359 893 981 US**

Northwest Aggregates  
Attn: Pete Stoltz  
PO Box 1730  
Seattle, WA 98111

**RE: Water Quality Certification Order #2882 and Coastal Zone Management Consistency Determination for U.S. Army Corps of Engineers (Corps) Reference #200001094, Maury Island Dock Replacement and Extension, East Passage, Puget Sound, King County, Washington**

Dear Mr. Stoltz:

On May 3, 2005, Northwest Aggregates 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 Maury Island Dock Replacement and Extension. The Corps issued a public notice on December 13, 2004, and a subsequent public notice for public hearing and erratum on April 15, 2005 for the proposed project. Ecology issued a public notice of public hearing on May 4, 2005. A public hearing was held on May 17, 2005.

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.

On June 28, 2005, Northwest Aggregates, submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). On December 19, 2005, Ecology and Northwest Aggregates jointly requested a CZM extension from the Corps until March 15, 2006. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that the proposed work is consistent with Washington's 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.



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

Sincerely,



Geoff Tallent  
Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

GT:rrp:cja  
Enclosure

cc: Olivia Romano, U.S. Army Corps of Engineers  
Laura Praye, Washington Department of Fish and Wildlife  
Sharon Holley, Washington State Department of Natural Resources  
Thom Hooper, National Marine Fisheries Service  
Nancy Brennan-Dubbs, U.S. Fish and Wildlife Service  
Stephanie Warden, King County Dept. of Development and Environmental Services  
Congressman Jim McDermott  
Don and Sharon Marsland  
David Mann, Gendler & Mann LLP  
JW Turner, Preserve Our Islands  
Kathy Fletcher, People for Puget Sound  
Washington Environmental Council  
Arlene Brown  
Robert Fuerstenberg  
Laura Wishik  
David Bain, University of Washington  
Dow Constantine, King County Council  
Representative Joe McDermott  
Representative Eileen Cody  
Terry Dievendore, Cascade Chapter, Sierra Club  
Susie Kalthorn, Dockton Water Association  
Becky Cox, League of Women Voters, King County South  
Joseph Bogaard, Save Our Wild Salmon  
Ann Stateler, Puget Sound Chapter, American Cetacean Society  
Toby Welch, Harbor School  
Ed Swan, Vashon-Maury Island Audubon Society

e-cc: Penny Keys, HQ  
Loree' Randall, HQ  
David Pater, NWRO

**IN THE MATTER OF GRANTING A ) ORDER #2882**  
**WATER QUALITY ) Corps Reference No. 200001094**  
**CERTIFICATION TO ) Maury Island Dock Replacement and Extension,**  
**Northwest Aggregates ) East Passage, Puget Sound, King County,**  
in accordance with 33 U.S.C. 1341 ) Washington.  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: Northwest Aggregates  
Attn: Pete Stoltz  
PO Box 1730  
Seattle, WA 98111

On May 3, 2005, Northwest Aggregates submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice for a proposed Section 10 Permit from the U.S. Army Corps of Engineers (Corps) and Coastal Zone Management consistency determination from Ecology was distributed by the Corps for the above-referenced project on December 13, 2004. A subsequent public notice for public hearing and erratum, which included a public notice for a proposed Section 404 Permit from the Corps and a proposed water quality certification from Ecology pursuant to the provisions of Chapter 173-225 WAC, was distributed by the Corps on April 15, 2005.

The proposed project includes the following work:

- Removal of the existing conveyor trestle, walkways, pier structures, eight dolphins, and four submerged piles;
- Removal of a total of 228 timber piles;
- Construction of a barge-loading conveyor tube with three 4 to 6-pile support bents;
- Construction of a new 305-foot dock;
- Installation of seven 6-pile berthing dolphins with fenders and aluminum catwalks; and
- Installation of a maximum of 56 new steel piles.

Mitigation for potential impacts from barge-loading activities addresses impacts from gravel spillage, shading, prop wash, and noise. These include: a completely enclosed conveyor tube to prevent gravel spillage from the mining area to the loader; maintaining a minimum of 3 feet between the loaded barges and the substrate at Mean Lower Low Water line; and extension of the dock 120 feet from the outer edge of the existing eelgrass beds.

The proposed work will take place at 26000 79<sup>th</sup> Avenue SW, Maury Island, East Passage, Puget Sound, King County, Washington, WRIA #15.

**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 quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve Northwest Aggregates from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments occurring as a result of project construction or operations.

**General Conditions:**

- A1. For purposes of this Order, the term "Applicant" shall mean Northwest Aggregates, and its agents, assignees and contractors.

- A2. For purposes of this Order, all submittals required by conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, Shorelands and Environmental Assistance Program, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008 or faxed to 425/ 649-7098. All submittals shall reference Order #2882 and Corps Reference #200001094.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 3, 2005, and supplemental materials reviewed and approved by Ecology. 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 shall be rescinded if the Corps does not issue a Section 404 permit.
- A6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- A7. 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.
- A8. 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.
- A9. 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.
- A10. 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.

A11. 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.

A12. 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 per day for each day of continuing noncompliance.

**B. In-Water Construction Water Quality Conditions:**

B1. East Passage, Puget Sound is classified as Class AA waters of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-110(3).

B2. In-Water Construction Water Quality Sampling and Monitoring: An in-water construction Water Quality Monitoring Plan shall be developed and implemented. "In-water construction" is defined as all work below the ordinary high water mark of the East Passage, Puget Sound. **The Water Quality Monitoring Plan shall be submitted to Ecology for review and approval at least 60 days before construction is scheduled to begin.** Ecology may require changes and modifications to the plan. The plan shall include the following minimum requirements:

- a. Locations of samples: Locations of water quality sampling sites shall be identified and described in the plan and on a map. At a minimum, sampling shall take place at the point of compliance as specified in WAC 173-201A-110(3), which allows a temporary mixing zone for turbidity resulting from disturbance of in-place sediments. The allowed mixing zone is 150 feet in East Passage, Puget Sound. Background samples shall be collected outside the area of influence of the inwater work. These samples shall be collected at the same frequency as the point of compliance samples.
- b. Number of samples: Samples shall be collected a minimum of every two (2) hours throughout the first day of in-water construction activity. Subsequent sampling is dependent on monitoring results, but shall be a minimum of three (3) times per day during in-water activity if no exceedances are detected. Additional sampling may be required if turbidity exceedances are observed or measured to be above the WAC 173-201A-110(3) temporary mixing zone criteria.

- c. Parameters to be sampled: Turbidity shall be sampled for this project.
- d. Equipment: Sampling for turbidity is to be accomplished using a turbidometer properly calibrated according to the operator's manual.
- e. Detection of exceedances: Water quality standards for turbidity in Class AA waters are as follows: turbidity shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-110(3) are detected as a result of water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site Best Management Practices (BMPs) and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- f. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #2882, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
  - i. A description of the nature and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
  - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
  - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, photographs, and any other pertinent information.
- g. Submittal of reports: Turbidity sampling results can be included in a weekly "status report." The weekly status reports shall be submitted no later than the Tuesday of the week following the week samples were collected. Reports shall summarize the scope of inspections, personnel conducting the inspection, results of turbidity sampling, date

of the inspection and/or sampling event, summary of any non-compliance, and actions taken as a result of the inspections/sampling for the previous week and proposed construction for the upcoming week. Status reports shall be submitted in accordance to condition A2 above.

**C. Sediment Sampling Conditions:**

- C1. The Applicant shall develop a sediment Sampling and Analysis Plan (SAP) and submit the SAP to Ecology for its review and approval 30 days before construction is scheduled to begin. Construction shall not begin until the SAP is approved by Ecology in writing.
- C2. The Applicant shall collect sediment samples from the footprint of the area being impacted by removal and construction activities as per the SAP approved by Ecology (Condition C1). The purpose of such sampling is to demonstrate that degradation of surface sediments (the top 10 centimeters) has not occurred due to removal and construction activities. If the surface sediment is found to have degraded due to the removal and construction activities, the Applicant shall take appropriate action, as approved by Ecology, to restore sediment quality to that found before the removal and construction activity.

**C3. Sampling Data Submittal – Sediments**

Sediment sampling data for all required fields listed in the current version of SEDQUAL (Sediment Quality Information System) shall be submitted to Ecology electronically in SEDQUAL data entry templates including, but not limited to REFERENCE, SURVEY, STATION, SAMPLE, CHEMISTRY, BIOASSAY and BIOASSAY CONTROL. Station locations should include latitude/longitude coordinates in NAD83 HARN south zone feet and chemical concentration data should be reported in dry weight units.

Electronic SEDQUAL template data must be verified to be compatible with the current version of SEDQUAL which uses ASCII protocol, comma delimited text files prior to delivery to Ecology. Verification shall be conducted by the consultant importing each of the data templates into their SEDQUAL database, correcting any errors, and then exporting the corrected final templates for delivery to Ecology.

Sediment sampling data shall also be submitted to Ecology in hardcopy reports containing data tables in both dry weight and total organic carbon normalized units in comparison to applicable state regulatory criteria. Electronic SEDQUAL template data shall be submitted to Ecology simultaneously with the hardcopy report.

The current version of SEDQUAL can be found at  
<http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm>.

- C4. The Applicant must establish a sediment quality baseline by either conducting a new baseline study, approved by Ecology or use the sediment quality as characterized in the May 2000 "Maury Island Gravel Impact Study: Nearshore Impact Assessment."

**D. Project Mitigation Conditions:**

- D1. The Applicant shall implement the requirements of the *Mitigation Plan, Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates*, prepared by Northwest Aggregates, dated June 2, 2004.
- D2. Any unanticipated adverse impacts not identified in the JARPA must be reported to Ecology per Condition A2. The Applicant may be subject to additional mitigation requirements as a result of these impacts.
- D3. The Applicant shall avoid eelgrass beds during construction. Placement of derrick anchors (or spuds) in areas designated as eelgrass beds is prohibited. Eelgrass beds shall not be shaded for more than three (3) consecutive days during peak growing times (i.e. May through August).

**E. Conditions for In-Water and Over-Water Construction Activities:**

**General Conditions:**

- E1. Work shall be accomplished per plans and specifications entitled, "Maury Island Pier Repair" dated November 2003, except as modified by this Order. A copy of this plan shall be available on site during construction.
- E2. During construction, a containment boom and absorbent pads shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as a result of construction activities. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
- E3. During construction the Applicant shall have a boat available on site at all times to retrieve debris from the water.
- E4. The Applicant shall use tarps when painting over water to prevent materials from entering the water.
- E5. The Applicant shall use tarps or other containment method when cutting or drilling over water to prevent sawdust and other materials from entering the water.

- E6. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- E7. Machinery and equipment used during construction shall be serviced, fueled and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.

**Piling Removal:**

- E8. All piling shall be removed by vibratory extraction. In the event pilings break off during extraction, the remaining piling may be removed by using a clamshell bucket or a chain.
- E9. Work surface on the barge deck shall include a containment basin for piles and any sediment removed during pulling of the piling. Basins may be constructed of durable plastic sheeting with sidewalls supported by hay bales or support structure to contain all sediment.
- E10. All existing creosote treated pilings (including dolphins) shall be completely extracted, removed from marine waters, and disposed of at an approved upland disposal site. Clean sand must be deposited in the area where the creosote piling has been removed in order to avoid creosote leaching into marine waters. If the pilings are unable to be completely removed they shall be cut off at a minimum of one (1) foot below grade or at greater depth required by the Washington Department of Fish and Wildlife Hydraulic Project Approval. The hole then shall be capped with clean sand.
- E11. Piles removed from substrate: the pile shall be moved immediately from the water into the barge lined with filter fabric or straw bales around the perimeter. The pile shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.

**Pile Driving:**

- E12. All new pilings shall be steel.
- E13. The Applicant shall employ a bubble curtain around steel piles when using an impact hammer. The bubble curtain shall be deployed in a manner to ensure that bubbles completely engulf the piles during the impact driving.

**F. Conditions for Upland Construction Activities:**

- F1. Construction stormwater, sediment, and erosion control BMPs (e.g., detention areas, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- F2. Direct discharge of construction stormwater to waters of the state (including wetlands) is prohibited. All stormwater from disturbed areas must be treated before discharge and/or managed on site.
- F3. The project shall be clearly marked/staked prior to commencing any construction activities. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated and marked with brightly colored construction fence, so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing that identifies sensitive areas boundaries (wetlands, streams, riparian corridors, buffers, etc.). Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
- F4. The Applicant shall submit to Ecology for review a Temporary Erosion and Sediment Control (TESC) Plan at least 30 days prior to beginning construction. This Plan shall be submitted to Ecology's Federal Permits Manager per condition A2 above. This plan shall include the following information:
- Name and phone number of person responsible for implementing the plan;
  - BMPs anticipated to be implemented;
  - Frequency of BMP inspections and staff person responsible for BMP inspections; and
  - Contingency plans in the event of adverse weather conditions or other unforeseeable conditions.
- F5. The Applicant shall periodically inspect and maintain all erosion control structures. Inspections shall be conducted no less than every seven (7) days from the start of the project to final site stabilization. Daily inspections of sedimentation ponds shall occur during wet seasons. Additional inspections shall be conducted after rainfall events greater than 0.5 inch per 24-hour period, to ensure erosion control measures are in working condition. These inspections shall be conducted within 24 hours after the event. Any damaged structures shall be repaired immediately. If it is determined during the inspection that additional measures are needed to control stormwater and erosion, such measures shall be implemented immediately. Inspections shall be documented in writing and shall be available for Ecology's review upon request.

- F6. The Applicant shall establish and maintain a designated area for washing down equipment and vehicles so that wash waters are managed. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES permit or state waste discharge permit.
- F7. Vehicles shall be cleaned of mud, rock, and other material before entering a paved public highway so that tracking of sediment onto the highway does not occur.

**G. Facility Operational Conditions:**

- G1. During operation of the facility the Applicant shall comply with all requirements within the Sand and Gravel General Permit No. WAG 503178 issued on January 5, 2005 for this project. During operation of the facility the temporary turbidity mixing zone established in WAC 173-201A-110 (3) and referenced in Condition B1 above **does not apply**.

**Handling Potentially Contaminated Soils:**

- G2. Management of any arsenic-contaminated soils will occur in compliance with the Model Toxics Control Act (MTCA; RCW 70.105D) under the Voluntary Cleanup Program. Because the actions of the Applicant are not being conducted under a consent decree with Ecology, this certification does not constitute a settlement by the State under RCW 70.105D.040(4) or any other provision of MTCA. As such, this certification does not limit Ecology's authority nor bind the agency under that statutory scheme. The Applicant must conduct the necessary monitoring and maintenance to assure that this site does not pose a threat to human health or the environment.

If Ecology determines that the mitigation measures applied by the Applicant to address arsenic contamination at the site do not prevent degradation of existing surface and groundwater quality conditions due to arsenic contamination, Ecology shall require additional corrective action.

- G3. The Applicant shall prepare and submit for Ecology review and approval a Cleanup Action Plan (CAP) for arsenic contamination at the property that complies with all relevant MTCA requirements. The CAP shall be submitted to and approved by Ecology no later than 60 days prior to start of construction of the containment facility. The CAP shall meet all requirements set out in the *Northwest Aggregates Maury Island Final Environmental Impact Statement*, dated June 2000, including but not limited to those requirements outlined in the *Draft Environmental Impact Statement, Maury Island Lone Star Gravel Mine*, Appendix C, dated July 1999.

- G4. The Applicant intends to construct the containment facility in phases. At the conclusion of any phase of construction of the containment facility, the Applicant shall provide an As-Built Report, including as-built plans or drawings and specifications, to Ecology for review and approval. These As-Built Reports shall be submitted to Ecology within 90 days of completion of each phase. The final As-Built Report, at completion of the containment facility, shall be submitted within 120 days.
- G5. The Applicant shall submit facility inspection and secondary containment monitoring reports on an annual basis to Ecology for review. These reports shall be submitted to Ecology starting one (1) year from completion of containment facility and shall continue in perpetuity.
- G6. All sampling data, including monitoring data, shall be submitted to Ecology's Environmental Information Management (EIM) database. See Ecology's EIM web site at <http://www.ecy.wa.gov/eim/>

**Barge Loading:**

- G7. The Applicant shall implement the requirements of the *Mitigation Plan, Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates*, prepared by Northwest Aggregates, dated June 2, 2004 including the following:
- a. The overwater conveyor system shall be completely enclosed with a telescoping spout attached to the discharge end in order to prevent and minimize gravel spillage.
  - b. Only barges with bin walls will be loaded and material will be loaded so that the materials remains at least two (2) feet below the top of the bin walls.
  - c. The Applicant shall notify Ecology and receive appropriate approval if removal of spilled material is needed.
- G8. During loading of the barges, if any material is observed spilling off the barge or conveyors into the water, the Applicant or their contractor shall visually monitor for a turbidity plume and estimate the outer limit of the plume from the distance of the spill. The Applicant or the contractor shall take immediate appropriate measures to correct the problem and/or prevent further spills of material into the water. Within 24 hours of the spill, the Applicant shall notify Ecology's 401/CZM Federal Project Manager of the spill, the amount of material spilled, cause of the spill, and estimated distance of the plume.

**Barge Traffic:**

- G9. The Applicant shall implement the requirements of the *Barge Approach and Departure Protocol, Northwest Aggregates—Maury Island Barge-Loading Dock* (Appendix D,

Addendum to the Final Environmental Impact Statement, March 16, 2004) prepared by Glacier Northwest and revised December 2, 2003, including the following:

- a. The Applicant shall submit the field recorded data and a brief technical memorandum summarizing the velocity observations and comparison to action values to Ecology within one (1) week after the scheduled data download and comparison.
- b. During the initial period of six (6) months or until 50 barges have been loaded at the site (which ever is longer) the Applicant shall immediately notify Ecology if any five (5) second mean velocity measurements exceed 75 cm/sec and are attributed to propeller wash from tugboats.

**Groundwater Protection:**

- G10. The site shall be excavated to an elevation that would maintain a minimum 15-foot buffer between the bottom of the gravel pit floor and the measured or predicted static groundwater level.
- G11. The Applicant shall submit a Groundwater Monitoring Plan that focuses on groundwater levels within the pit. The Plan shall be submitted to Ecology's 401/CZM Federal Project Manager within 30 days of issuance of this Order for review and approval. The initial approval may be modified following data collection.
- G12. Notification of violation of Condition G10: Notification of any violation of Condition G10 shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #2882, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
  - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
  - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - d. In addition, within five (5) days after notification of a violation, the Applicant shall submit a written report to Ecology that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, photographs, and any other pertinent information.

- G13. Groundwater level monitoring results shall be signed by a duly authorized representative of the Applicant and submitted quarterly to Ecology's 401/CZM Federal Project Manager.
- G14. The Applicant shall provide access to monitoring wells and all groundwater level monitoring data upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.

**H. Emergency/Contingency Measure Conditions:**

- H1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project. This Plan shall be submitted to Ecology for review 30 days prior to beginning construction.
- H2. The facility shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- H3. 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.
- H4. 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 shall immediately take the following actions:
  - a. Cease operations at the location of the violation.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
  - d. 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.

Compliance with the above conditions does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- H5. 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 or Washington Department of Fish and Wildlife (WDFW) on what to do with them. Ecology or WDFW may require analyses of these samples before allowing the work to resume.
- H6. 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.

**I. Timing Requirement Conditions**

- I1. This Order is valid until all compliance requirements in this document have been met.
- I2. In-water work shall be subject to timing limitations imposed by WDFW. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by WDFW that fisheries resources may be adversely affected.

**J. Reporting and Notification Requirement Conditions**

- J1. The Applicant shall submit the following reports to Ecology within one (1) month following the date data was last collected during that reporting period (refer to Table 1, page 24 of the *Mitigation Plan, Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates*, prepared by Northwest Aggregates, dated June 2, 2004, for reporting schedules):
- a. Temperature report;
  - b. Eelgrass Depth Contour survey, Grid survey, Qualitative survey, and reference site survey;
  - c. Bathymetry survey;
  - d. Technical Summary of Observation report;
  - e. Internal audits of Barge-Loading Operations report; and
  - f. Monitoring and Operations report.

- J2. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction, and within 14 days after completion of construction at the project site. Notification, referencing Order #2882, can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

**K. 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 March 14, 2006 at Bellevue, Washington.

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

**ATTACHMENT A**

**NORTHWEST AGGREGATES MAURY ISLAND DOCK PROJECT  
Water Quality Certification Order #2882**

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

I have read and understand the conditions of Order #2882 Section 401 Water Quality Certification for the Maury Island Dock Project. I have also read and understand all permits, plans, documents, and approvals associated with the Maury Island Dock Project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company