



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98006-5452 • (425) 649-7000

February 11, 2005

Chris Keuss  
Port of Edmonds  
36 Admiral Way  
Edmonds, WA 98020

**REGISTERED MAIL**  
**RR 359 893 434 US**

Don Fiene  
City of Edmonds  
121 5th Avenue North  
Edmonds, WA 98020

**REGISTERED MAIL**  
**RR 359 893 448 US**

Dear Mr. Keuss and Mr. Fiene:

RE: **Order # 1903**  
U.S. Army Corps Reference No. 200400592  
Water Quality Certification/Coastal Zone Consistency Determination for Port of Edmonds/City of Edmonds, Marina/Outfall Repair, Puget Sound, Snohomish County, Washington.

The request for certification for proposed work in and adjacent to Puget Sound has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply 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 letter also serves as the State response to the Corps of Engineers.

Pursuant to 16 U.S.C. 1456 et. seq. (Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended), Ecology concurs with the applicant's determination that this work will be consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Rebekah Padgett at (425) 649-7129. Written comments can be sent to Rebekah at the Department of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008, or at [rp461@ecy.wa.gov](mailto:rp461@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Jeannie Summerhays  
Section Manager  
Shorelands and Environmental Assistance Program

JS:rc

Enclosure

cc: Susan Glenn, US Army Corps of Engineers  
Lennie Rae Cooke, Anchor Environmental, LLC

Laura Praye, WDFW  
Elmer Ozolin, Berger/Abam Engineering, Inc.

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Epad.

**IN THE MATTER OF GRANTING A ) ORDER # 1903**  
**WATER QUALITY ) Corps Reference No. 200400592**  
**CERTIFICATION TO ) Replacement of an existing timber seawall,**  
**Port of Edmonds & City of Edmonds ) replacement of an existing timber bulkhead,**  
in accordance with 33 U.S.C. 1341 ) dredging of approximately 400 cubic yards of  
FWPCA § 401, RCW 90.48.120, RCW ) sediment, maintenance to the mid-marina  
90.48.260 and Chapter 173-201A WAC ) breakwater, and relocation of an existing  
deteriorated stormwater outfall, Puget Sound,  
Edmonds, Washington.

TO: Port of Edmonds  
ATTN: Chris Keuss  
336 Admiral Way  
Edmonds, WA 98020

City of Edmonds  
ATTN: Don Fiene  
121 - 5th Avenue North  
Edmonds, WA 98020

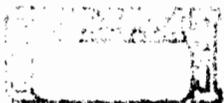
On November 15, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The proposed project consists of replacement of an existing timber seawall located on the north side of the marina; replacement of an existing timber bulkhead with a steel sheet pile bulkhead; dredging of approximately 400 cubic yards of sediment inside the marina; maintenance to the mid-marina breakwater, including replacement of deteriorated and missing sections of timber planking and removal of corrosion, replacement of deteriorated coating on steel H-piles, sheet piles, and channel cap beams, and removal of riprap from the seabed dislodged from the main breakwater at the main entrance and replacement at its original location; and relocation of an existing deteriorated stormwater outfall from a location outside the Port's seawall to a location inside the marina.

**AUTHORITIES:**

For purposes of this Order, the term "Applicant" shall mean the Port of Edmonds and City of Edmonds and its agents, assigns, and contractors.

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 investigated 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; 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.



**CONDITIONS OF ORDER # 1903 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. Puget Sound WRIA #8 is classified as Class AA waters of the state. Certification of this proposal does not authorize 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 water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

Puget Sound has been identified on the current 303(d) list as exceeding state water quality standards for numerous contaminants. This proposed project shall not result in further exceedances of the standards.

**B. Project Mitigation:**

- B1. Impacts to aquatic resources shall be minimized and mitigated through measures described in the following document, except as modified by this Order:
- Conservation measures as described in Biological Evaluation: Port of Edmonds Marina Rehabilitation and City of Edmonds Stormwater Outfall Relocation Project, prepared by Anchor Environmental, L.L.C., June 2004, specifically the conservation measures found on pages 24, 27, 31-32.

**C. Stormwater Management:**

- C1. Applicant shall comply with the Stormwater Management Manual for Western Washington (2001).
- C2. Stormwater treatment facilities are to be maintained so they function as designed.

**D. Dredging:**

- D1. Turbidity Standards: Within Class AA marine waters, the turbidity standards are as follows: Turbidity shall not exceed 5 NTU over background 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.

WAC 173-201A-110(3) allows a 150-foot mixing zone for temporary exceedances of the turbidity standards during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This certification does not authorize a temporary turbidity mixing zone greater than that allowed by WAC 173-201A-110(3). The Applicant shall fully apply all known, available, and reasonable methods of prevention, control, and treatment (AKART). Within the temporary turbidity mixing zone, the Class AA standard for turbidity is waived. All other applicable water quality standards shall remain in effect within the temporary turbidity mixing zone and all other water quality standards are to be met outside of the authorized mixing zone.

- D2. The waiver of specified standards within the temporary turbidity mixing zone is intended for brief periods of time (such as a few hours) and is not an authorization to exceed those standards for the entire duration of construction. In no case shall turbidity exceedances cause degradation of water quality that significantly interferes with or becomes injurious to characteristic water uses, including fisheries habitat, or causes long-term harm.

D3: Disposal Options:

- If the dredged sediment is to be disposed of in open water at an approved open water disposal site, no sampling is required.
- If upland disposal is chosen, the material should be tested to ensure that it does not designate as dangerous waste. Composite samples shall be collected for chemical analysis prior to disposal at a solid waste material landfill per solid waste disposal regulations. Jurisdictional health departments have primacy in the regulation of solid waste in Washington State. They administer the State solid waste rule Chapter 173-350 WAC, *Solid Waste Handling Standards*. The applicant shall contact Gary Hanada, Snohomish Health District, at (425) 339-5250 to ensure that the proposed placement meets State and local requirements. Sampling results shall be submitted to Ecology's Rebekah Padgett by e-mail to [rpad461@ecy.wa.gov](mailto:rpad461@ecy.wa.gov) or in writing.
- If laboratory analysis results show levels of contaminants above state Sediment Management Standards (Chapter 173-204 WAC), applicant shall notify Ecology's Rebekah Padgett by e-mail to [rpad461@ecy.wa.gov](mailto:rpad461@ecy.wa.gov), telephone to (425) 649-7129, fax to (425) 649-7098, or in writing.

**E. Construction:**

- E1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g., detention areas, filter fences, etc.), shall be in place before starting construction.
- E2. All construction debris, including corrosion debris from the breakwater, shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- E3. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- E4. No uncured or wet concrete shall come into contact with state waters.

**F. Notification:**

- F1. Applicant shall provide notice to Ecology's Rebekah Padgett at least 3 days prior to the start of construction, and within 14 days after completion of construction. Notification can take place by e-mail to [rp461@ecy.wa.gov](mailto:rp461@ecy.wa.gov), telephone to (425) 649-7129, fax to (425) 649-7098, or in writing.

**G. Emergency/Contingency Measures:**

- G1. In the event Applicant is unable to comply with any of the permit terms and conditions due to any cause, Applicant shall:
- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Rebekah Padgett at (425) 649-7129.
  - Submit a detailed written report to Ecology within 5 days 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, and any other pertinent information.

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

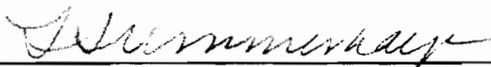
- G2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of creeks or wetlands.
- H. General Conditions:**
- H1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- H2. Applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- H3. Applicant will be out of compliance with this certification and must reapply with an updated application if 5 years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.
- H4. Applicant will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the Public Notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- H5. This Order shall be valid during construction activities and is valid until the Corps of Engineers 404 permit expires.
- H6. 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 foremen, and state and local government inspectors. To avoid violations or non-compliance with this Order, Applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order and any subsequent revision or Ecology-approved plans.

- H7. Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- H8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines 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), or if additional conditions are necessary to further protect the public interest.
- H9. Liability: 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) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by Order # 1903 may obtain review thereof by appeal. Pursuant to Chapter 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, ATTN: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated February 11, 2005, at Bellevue, Washington.

  
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Jeannie Summerhays, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington