



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

REGISTERED MAIL

June 17, 2005

Mr. Kojo Fordjour  
Washington State Ferries  
2911 Second Avenue  
Seattle, WA 98121-1081

RE: Water Quality Certification Order No. 2518 for Corps Public Notice 200401267. The project will include converting an existing walk-on slip to a drive-on slip to increase the ability of the facility to perform maintenance activities within Eagle Harbor, in Kitsap County, Washington.

Dear Mr. Fordjour:

The public notice from the U.S. Army Corps of Engineers for proposed work in Eagle Harbor, Kitsap County has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps public notice complies 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 Section 307(c) (3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the Applicant's determination that this work is 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 concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Kerry Carroll at (360) 407-7503. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

Enclosure



*Mr. Kojo Fordjour*  
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cc:      WSF – Burt Miller  
          Corps of Engineers –Jack Kennedy  
          Ecology, NWRO–Bob Penhale  
          WDFW – Randi Thurston  
          Ecology, HQ – Penny Keys

**IN THE MATTER OF GRANTING** )  
**A WATER QUALITY** )  
**CERTIFICATION TO** )  
Washington Department of Transportation )  
in accordance with 33 U.S.C. 1341 )  
FWPCA § 401, RCW 90.48.260, RCW )  
90.48.20 and WAC 173-201A )

**ORDER # 2518**  
(Corps No. 200401267)  
Eagle Harbor Maintenance Facility- Slip B  
Improvement Project

TO: Washington State Ferries  
Attn: Kojo Fordjour  
2911 Second Avenue  
Seattle, WA 98121-1081

On December 30, 2004 a request for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review and comment through the Corps of Engineers' Public Notice No. 200401267.

The Eagle Harbor Maintenance Facility – Slip B Improvement project is located on Bainbridge Island in Eagle Harbor in Section 26, Township 25 North, Range 2 East, and Kitsap County. The project would convert an existing walk-on slip (slip B) to a drive-on slip through demolition and removal of the two existing steel wing dolphins, one steel-pile dolphin, and a steel gangplank and its single support pile and installation of new concrete trestle, transfer span and bridge seat, two bridge support towers, two wing dolphins, one steel dolphin, and modifications to existing Pier 1 including site/slip utilities. Eleven steel piles and sixty-three creosote piles at the Eagle Harbor Maintenance Facility will be removed as mitigation for the loss of benthic habitat that will result from the project.

For purposes of this Order, the term “Applicant” shall mean the Washington State Department of Transportation (WSDOT)/Washington State Ferries (WSF) and its agents, assigns, and contractors.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341 and 90.48.260 RCW and 90.48.120 RCW and Chapter 173-201A WAC, 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, 302, 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.

**WATER QUALITY CERTIFICATION CONDITIONS:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the Washington Department of Transportation (WSDOT) subject to the following conditions:

**A. Water Quality Standard Conditions:**

1. Eagle Harbor is a Class "A" water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedence of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
  - a. The point of compliance for turbidity when working in marine waters shall be at a radius of one hundred fifty feet (173-201A-110(3)(d) WAC) from the activity causing the turbidity exceedence. The mixing zone is not granted for any other parameter other than turbidity and is only authorized after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedence of the turbidity criteria.
2. This reach of Eagle Harbor has been identified on the current 303(d) list as exceeding state water quality standards for Arsenic, Benz(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Chrysene, Dibenzo(a,h)anthracene, Indeno(1,2,3-cd)pyrene, Mercury, PAH's and PCB-1254. This proposed project shall not result in further exceedence of these standards.

**B. TIMING:**

1. This Order is valid only during construction of this project.
2. In-water work is subject to a fishery closure window determined by Washington Department of Fish and Wildlife's Hydraulic Project Approval (HPA). All in-water work shall be completed by the work window identified in the most current HPA issued for this project.

**C. Notification Conditions:**

1. Notification shall be made for the following activities:
  - a. at least 20 days prior to the pre-construction meeting,
  - b. at least 7 days prior to the onset of any work authorized by this Order,
  - c. within 7 days after the completion of the project.
  - d. immediately following a violation, or potential to violate state water quality standards.

**NOTE:** These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number and shall be sent to Ecology's Federal Permit Manager for this project, Kerry Carroll, unless otherwise notified, at [kstr461@ecy.wa.gov](mailto:kstr461@ecy.wa.gov) or 360-407-7503. Email is preferred.

2. The Applicant shall ensure that all appropriate Supervisors, Project Engineer(s), Contractor(s) and Project Inspector(s) 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 to Ecology a signed statement from each Project Engineer, Contractor, Inspector and appropriate Supervisors that they have read and understand the conditions of this Order and the referenced permits, plans, documents and approvals. These statements shall be provided to Ecology on the form provided (attachment A) no less than 7 days before construction begins at the project site. The Applicant shall also provide a signed statement to Ecology from each new Supervisor, Project Engineer, Contractor or Inspector hired or assigned after the project begins within 7 days of hiring.

**D. Water Quality Monitoring and Reporting Conditions:**

1. The Applicant shall submit a Water Quality Monitoring and Protection Plan to the Federal Permit Manager at least 20 days prior to beginning construction for review and approval. Activities that are required to be monitored are not authorized to be conducted until approval is received.
2. Monitoring of this project shall be done for the following in-water activities as described below:

Activity	Parameter	Location	Frequency	Sample Type	WQ Standard
(1) Concrete Pouring	pH	2 locations per condition D4	Every 2 hrs during activity	Water	pH: 7.0-8.5
(2) Pile Removal (Steel & Creosote)	Turbidity	2 locations per condition D4	Every 2 hrs during activity	Water	5 NTU over **background
(3) Pile Driving	Turbidity	At pile driving site	*Continuous	***Visual	5 NTU over **background
(4) All Activities	Oil and Grease	During all in-water activities	*Continuous	***Visual	Visible Sheen

- \* Continuous sample frequency is defined as the entire duration of the activity.
- \*\* Background is defined as the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration.
- \*\*\* Visual sample type is defined as an observation

- a. If there is a noticeable turbidity plume near the compliance point between sample periods, a sample shall be taken at that time.
  - b. If a visual turbidity plume exists at the pile driving site, water samples shall be taken at least every 2 hours at the point of compliance until the turbidity plume is no longer present.
3. The Water Quality Monitoring and Protection Plan shall include the name(s) and phone number(s) of the Pollution Control inspector, as required in G5, and the person responsible for onsite monitoring and reporting.
  4. Prepare and submit a map as part of Water Quality Monitoring and Protection Plan with numbered or named sampling locations associated with the in-water activities indicated in the above table.
    - a. Identify 2 sample locations for each activity at a 150 ft radius from each activity identified in the water quality monitoring table above.
    - b. Establish 2 background sample locations outside the 150 ft radius. Background samples shall be taken daily prior to the onset of activities 1, 2, 3 as identified in the Water Quality Monitoring table.
  5. The Plan shall also include a description of the Best Management Practices that will be used on the project to protect water quality, including a description of procedures for concrete pouring, pile removal and pile driving activities.
  6. Monitoring results shall be reported on the WSDOT required form, indicating the activity that prompted the monitoring and the locations monitored in the "Notes" field of the form.
  7. If the results of the monitoring show that the water quality standards are not being met, WSDOT shall modify or stop the activity causing the problem and commence hourly monitoring until standards are met for 2 continuous sample periods.
  8. Mitigation may be required if water quality standards or performance standards are not met.
  9. Any changes to the monitoring plan requirements must be approved in writing by Ecology.
  10. A report summarizing the monitoring results shall be submitted monthly to Ecology's Federal Permit Manager for this project.
  11. All monitoring results shall be kept onsite and submitted to Ecology upon request.

**E. Construction Activity Conditions:**

1. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
2. A contingency plan shall be developed detailing actions to be made in the event of adverse

weather conditions or other foreseeable undesirable conditions.

3. Machinery and equipment used during construction shall be serviced, fueled, and maintained in a manner to prevent contamination to surface waters.
4. A floating surface boom shall be installed to capture floating surface debris.
5. All construction and demolition debris shall be properly contained and disposed of in an approved upland facility so that it cannot enter or re-enter the waterway or cause water quality degradation to state waters.
6. During pile removal, the barge where the piles will be placed shall be completely enclosed so as to capture all untreated wastewater and sediments from the piling. The sediment, wastewater and piling shall be properly contained and disposed of on land in such a manner that it cannot enter into the waterway or cause water quality degradation to state waters.
7. Dewatering water that is not turbid or has a pH between 7 - 8.5 may be discharged directly to Eagle Harbor provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be dewatered and b) the water will meet all other water quality standards at the point of discharge.
8. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash out of concrete delivery trucks, pumping equipment, and tools.
9. Fresh, uncured concrete in direct contact with the water is toxic to aquatic life. All concrete shall be poured in the dry, or within the confined waters not being dewatered, and shall be allowed to cure before contact with water.

**F. Mitigation**

1. Mitigation for this project shall be done per the Eagle Harbor Slip B Modifications Mitigation Plan, June 2005, except as modified by the Hydraulic Project Approval Control Number 100311-1.

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials available on site.
2. 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.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.

- c. In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. Ecology may require such sampling and analyses before allowing the work to resume.
  - d. 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.
  - e. Immediately notify Ecology's Northwest Regional Spill Response Office at 425-649-7000 and Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
3. 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.
  4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify the Ecology's Northwest Regional Spill Response Office at 425-649-7000.
  5. A full-time Pollution Control inspector shall be on-site at all times while construction activities are occurring that need monitoring or involve working in environmentally sensitive areas and on-call and readily accessible to the site during all other periods of construction activities.

**H. General Conditions:**

1. 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.
2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
3. Ecology retains continuing jurisdiction to make modifications hereto through a supplemental Order, if it appears necessary to further protect the public interest.
4. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.

5. A full-time Pollution Control inspector shall be on-site, or on-call and readily accessible to the site, at all times while construction activities are occurring that may affect the quality of ground and surface waters of the state, including all periods of construction activities.
6. The Pollution Control inspector shall have adequate authority to ensure proper implementation of the Water Quality Monitoring and Protection Plan, as well as immediate corrective actions necessary because of changing field conditions. If the Pollution Control inspector issues an order necessary to implement a portion of the Water Quality Monitoring and Protection Plan or to prevent pollution to waters of the state, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this Order.
7. The Applicant shall provide access to the project site upon request by Ecology for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
8. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Applicant, and state agency personnel.
9. 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.

Any person aggrieved by this Order may obtain review thereof by appeal. The Applicant can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the postmarked date of the permit. The 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 June 17, 2005 at Olympia, Washington



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