



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 30, 2007

REGISTERED MAIL

Mr. Doug Miller
Driftwood Key Club
P.O. Box 299, Hansville WA 98340

RE: Order #4242/Corps Project #200500828
JARPA Application for maintenance dredging of Driftwood Key Club Marina and
marina entrance in Coon Bay, Kitsap County, Washington

Dear Mr. Miller:

The above-referenced public notice for proposed work in waters of the state has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed in the 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 certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

If you have any questions concerning the content of this letter, please contact Helen Pressley at (360) 407-6076.

Sincerely,

A handwritten signature in black ink, appearing to read "B. McFarland", with a long horizontal flourish extending to the right.

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

cc: Don Benson, URS Corporation, 1501 4th Ave Suite 1400, Seattle WA 98101-1616
Jim Green, Corps
Penny Keys, Ecology



IN THE MATTER OF GRANTING A) ORDER # 4242
WATER QUALITY) Corps Reference No. 200500828
CERTIFICATION TO) Maintenance dredging in the amount of 29,000
Driftwood Key Club) cubic yards (CY) of sediment in and around the
in accordance with 33 U.S.C. 1341) entrance channel to Coon Bay, Hood Canal,
(FWPCA § 401), RCW 90.48.120, RCW) Puget Sound, Kitsap County, Washington
90.48.260 and Chapter 173-201A WAC)

TO: Mr. Doug Miller
Driftwood Key Club
P.O. Box 299
Hansville WA 98340

On July 31, 2006 the Driftwood Key Club submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on July 13, 2006. This public notice is a revision of the public notice first issued on November 16, 2005.

The proposed project entails maintenance dredging in the amount of 29,000 CY from their marina and at the entrance to Coon Bay, Hood Canal, Puget Sound, Kitsap County, Washington 98340. Section 19, Township 28N, Range 2E, WRIA# 15, Kitsap.

The proponent proposes to dredge the entrance to Coon Bay, as well as intertidal areas around the individual moorage structures. The area of intertidal area to be dredged in individual berthing areas is approximately 1.51 acres of habitat between -2 and +4 feet Mean Lower Low Water (MLLW). The entire area to be dredged totals 5.6 acres.

The dredged material will be disposed of at either Puget Sound Dredge Disposal Analysis (PSDDA) site in Port Gardner or Port Townsend.

The purpose of this project is to return the entrance channel to a safe, useable small boat entrance, adequately mark the entrance channel, and provide adequate depth for boat moorage at private moorage structures.

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:

1. For purposes of this Order, the term "Applicant" shall mean Driftwood Key Club and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504. Any submittals shall reference Order No. 4242 and Corps No. 200500828.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 31, 2006. 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.
4. 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.
5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept at 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.
7. 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.

8. 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.
9. 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.
10. 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.
11. 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.
12. This Order shall be rescinded if the US Army Corps of Engineers does not issue an individual Section 404 and Section 10 permit.

B. Water Quality:

1. This Order does not authorize temporary exceedances beyond that authorized in Ch. 173-201A-210(1)(c)(i)(D)WAC.
2. Turbidity shall be assessed and recorded at a minimum of every four (4) hours during periods of active in-water work. Monitoring points shall be 100 feet up current (representative background), 300 feet down current, and at the discharge point. A turbidimeter is recommended, however, visual gauging of turbidity is acceptable. Visible project-related turbidity at 300 feet down current from the discharge point is considered to be an exceedance of the standard.

If turbidity exceeds: 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or there is a more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU, Then modify the activity causing the problem and continue to monitor every four (4) hours.

If exceedances occur during two (2) consecutive measurements (four (4) hours apart), stop the activity causing the turbidity until the problem is resolved.

C. Dredging and Disposal:

1. All dredging is to be done using a hydraulic dredge. Use of any other type of dredge will require prior approval from the DMMP agencies.

2. All material dredged will be transported to either the Port Gardner or the Port Townsend in-water disposal sites.
3. All debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed.
4. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
5. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
6. In-water and upland staging area erosion control BMPs (e.g., filter fences, bubble curtains etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting or dredging at the site.
7. Work shall be accomplished per the Joint Aquatic Resource Application, dated July 31, 2006, and the "*Biological Evaluation for the Driftwood Key Marina Maintenance Dredging Project*" dated September 2002" and addendums except as modified by this Order.
8. Any construction or staging debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
9. Machinery and equipment used during dredging shall be serviced, fueled, and maintained upland where possible unless otherwise approved by Ecology in order to prevent contamination to any surface water.
10. 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.
11. During construction and dredging, 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 and dredging activities. Oil absorbent materials shall be employed if any floating oil sheen is observed. The boom shall remain in place until all oily material and floating debris have been collected and sheens dissipate. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
12. Only barges with low walls or other containment devices around the perimeter of the barge shall be used for storage of dewatering discharges and excavated sediments in order to prevent and minimize sediments and turbid waters from entering marine water.
13. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.

14. All manmade debris on the beach within the construction/dredging work area shall be removed and disposed of upland such that it does not enter waters of the state.
15. A **Dredging Plan** is required and shall be made available for review and approval at the pre-dredge meeting to be convened at the Seattle Corps of Engineers office prior to the start of dredging. One week prior to the pre-construction meeting, a copy of the plan shall be sent to the Federal Permit Coordinator, Department of Ecology, PO Box 47600, Olympia WA 98504-7600 for review prior to the meeting.

D. Timing Requirements:

1. In-water work is subject to a fishery closure window described in Washington State Department of Fish and Wildlife's (WDFW) Hydraulic Project Approval (HPA) #102363-1 dated March 27, 2007. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order shall remain in effect for a period of ten (10) years from date of issuance. Continuing this project beyond the ten year term of this Order will require separate certifications every ten years.

E. Notification Requirements:

1. **The department shall be notified at least 72 hours prior to the start of dredging.** Contact Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.
2. The 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 or dredging at the project site. Notification, referencing Corps Reference #200500828, Order #4242 can take place by telephone to (360) 407-6076 or, fax to (360) 407-6902, e-mail at hpre461@ecy.wa.gov or in writing.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.

- 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 within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples 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 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 (360) 407-6076.
 - f. 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.
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, including wetlands.
 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 Ecology using the above phone numbers.

G. 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:

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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 April 30, 2007 at Lacey, Washington.



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