



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

REGISTERED MAIL

December 5, 2006

Ms. Anne Tonella-Howe  
City of Mercer Island  
9611 SE 36<sup>th</sup> St  
Mercer Island, WA 98040-3742

RE: Water Quality Certification - Order #3289/Corps Public Notice 200500980 - Replacement of an existing 9,100 foot failing segment of the City of Mercer Island's lake line sewer system and an upgrade of the pump stations within two reaches of the overall City sewer system in Lake Washington along the shoreline of Mercer Island, King County, Washington

Dear Ms. Tonella-Howe:

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 letter also serves as the State response to the Corps of Engineers' public notice.

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 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 the Order, please contact Helen Pressley at (360) 407-6076.

Sincerely,

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

cc: Susan Powell, Corps  
Penny Keys, Ecology  
Rebekah Padgett, Ecology

**FILE COPY**



**IN THE MATTER OF GRANTING A  
WATER QUALITY  
CERTIFICATION TO  
the City of Mercer Island**  
in accordance with 33 U.S.C. 1341  
(FWPCA § 401), RCW 90.48.120, RCW  
90.48.260 and Chapter 173-201A WAC

) **ORDER # 3289**  
) **Corps Reference No. 200500980**  
) Replacement of an existing 9,100 foot failing  
) segment of the City of Mercer Island's lake line  
) sewer system and an upgrade of the pump  
) stations within two reaches of the overall City  
) sewer system in Lake Washington along the  
) shoreline of Mercer Island, King County,  
) Washington

TO: Ms. Anne Tonella-Howe  
City of Mercer Island  
9611 SE 36<sup>th</sup> St  
Mercer Island, WA 98040-3732

On January 10, 2006 the City of Mercer Island submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on December 6, 2005.

The purpose of this project is to provide a safe, reliable, and maintainable wastewater collection and delivery system that will carry sanitary sewage from the northwest corner of Mercer Island to the King County collection system.

The work to be done includes replacement of an approximately 9,100 foot long failing segment of the City of Mercer Island's lake line sewer system and upgrade pump stations within two reaches (Reaches 3 and 4) of the overall City sewer system. The new sewer line would be installed waterward of and parallel to the existing sewer line. The work would include the installation of 9,100 lineal feet of new sewer main and 6,900 lineal feet of new side sewer pipe and connections.

In Reach 3, a new pump station (No. 4) will be constructed immediately north of the I-90 bridge. Approximately 3,350 feet of new 16-inch gravity main and an adjacent 12-inch bypass force main between new pump station No 4 and Roanoke Way. Approximately 5,200 feet of new 6-inch side sewer pipe will be installed to extend 42 side sewers.

In Reach 4, approximately 1,700 lineal feet of new 10-12-inch pipe will be installed between Pump Station No. 1 and the King County Inlet Facility. Approximately 1,700 lineal feet of new 6-inch and 10-inch side sewer pipe will be installed to extend 7 side sewers.

It is estimated that the sewer main and side sewer trenches will be 8-16 feet wide at the sediment surface and 3-5 feet wide at the bottom of the trench. Approximately 28,000 cubic yards (cy) will be excavated along the project corridor, with approximately 16,000 cy being placed back into the trench after the installation of the pipeline. It will be overlain with a layer of gravel appropriate in size for use as spawning habitat for anadromous salmonids. The remaining 12,000 cy of

excavated material will be disposed of at the Elliott Bay Puget Sound Dredged Disposal Analysis (PSDDA) open-water disposal site.

The existing sewer line will be flushed prior to decommissioning. As side sewers are connected to the new sewer line, the old sewer line would be cut, capped, and buried in place.

**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, 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), 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 the City of Mercer Island, 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 to the Federal Permit Coordinator, PO Box 47600, Olympia WA 98504. Any submittals shall reference Order No. 3289 and Corps No. 200500980.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 10, 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 shall be rescinded if the Army Corps of Engineers does not issue an individual 404 water quality permit.
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the project manager, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. 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, erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. 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.
11. 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.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

## **B. Water Quality:**

### 1. No Further Impairment of Existing Water Quality.

Lake Washington, (WRIA 8, WA-08-9350) is a Class LAK 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 (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(5) and WAC 173-201A-040 shall apply to this project.

This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(5). Furthermore, nothing in this certification shall absolve the City of Mercer Island from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

## **C. Dredging and Disposal:**

1. All dredging is to be done using a barge-mounted clamshell dredge. Use of any other type of dredge will require prior approval from the DMMP agencies.
2. Approximately 28,000 cy of dredged material will be excavated for this project, with approximately 16,000 cy of material being placed back into the trench after the installation of the pipeline. The remaining 12,000 cy of material will be disposed of at the Elliott Bay PSDDA (Puget Sound Dredge Disposal Analysis) non-dispersive open-water disposal site.
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. All debris shall be disposed of at an appropriate upland location.
4. A **Dredging Plan** is required and shall be made available for review and approval at the pre-construction 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.
5. 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.
6. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.

**D. Construction – Pump Stations, Staging Areas, and Upland sewer connections:**

1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g. filter fence, silt curtains, etc.), shall be in place at staging and construction areas before starting work. BMPs shall be maintained throughout construction and removed when they are no longer needed.
2. All construction debris shall be properly disposed of on land so that it cannot enter the waterway or cause water quality degradation to state waters.
3. All excess excavated upland material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
4. Erosion control devices (e.g., filter fences, silt or bubble curtains, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
5. 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 or state waste discharge permit.
6. Work shall be accomplished per the *City of Mercer Island Sewer Lake Line Replacement Biological Assessment* dated August 3, 2005 except as modified by this Order.
7. Forms used for any concrete/grout structure shall be constructed to prevent leaching of concrete/grout into waters of the state. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms if it will come into contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.

**E. Monitoring:**

1. During work on the project and immediately after project completion, the Applicant or contractor shall visually monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone as described in 173-201A-210 all work shall cease immediately, and the Applicant or the contractor shall contact Ecology at Ecology's Northwest Regional Spill Response Office at (425) 649-7000, a 24-hour number.
2. The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature and cause of the occurrence, including an estimate of the quantity and quality of the amount discharged;
  - b. The period of noncompliance; and
  - c. A description of the actions taken to ameliorate the problem.

**F. Mitigation:**

Proposed mitigation includes the removal of milfoil, the placement of spawning gravel to restore the surface of the pipe trenches, the removal of treated wood piling at Roanoke Landing, Pump Station No. 4, lakeshore restoration at Garfield Landing and Slater Park; Pump Station No. 4; and lakeshore restoration at Luther Burbank Park.

1. Impacts to aquatic resources shall be mitigated by providing the latest mitigation plan to Stewart Reinbold of Washington Department of Fish and Wildlife as part of the City's HPA application.
2. The Applicant shall forward a copy of the WDFW-approved mitigation plan to Ecology at the above address (See Condition A2).
3. A copy of the final Noxious Weed Removal Plan shall be submitted to Ecology when complete.

**F. Emergency and Contingency Measures:**

1. Any in-water work that is out of compliance with the provisions of this Order, 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 operator 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 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.
2. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Northwest Regional Spill Response Office at (425) 649-7000, a 24-hour number.
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.

**G. Timing Requirements:**

1. No in-water work may be conducted until mitigation review has been completed and the HPA issued by the Washington State Department of Fish and Wildlife.

2. 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 shall also be sent to Ecology for review.
3. This Order shall remain in effect for a period of five (5) years from date of issuance. Continuing this project beyond the five year term of this Order will require separate certifications every five years.

#### **H. 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](mailto:hpre461@ecy.wa.gov).

#### **I. 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 Dec 5, 2006 at Lacey, Washington.



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Brenden McFarland, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington

## Attachment #A

### Water Quality Certification Statement of Understanding

I, \_\_\_\_\_, state that, as an agent or contractor for construction and/or dredging at the City of Mercer Island Sewer Line Replacement Project, located in Lake Washington, King County, Washington. I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order #3289 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company

Make copies for each individual to sign and return to the Department of Ecology