



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

September 7, 2006

**REGISTERED MAIL**  
**RB 670 437 899 US**

Alaska Marine Lines Inc.  
Attn: Rod Dewalt  
5615 West Marginal Way SW  
Seattle, WA 98106

**RE: Water Quality Certification Order #3680 and Coastal Zone Management  
Consistency Determination for U.S. Army Corps of Engineers (Corps) Reference  
#200501087 to Fill a 1.34-Acre Graving Dock, Duwamish Waterway, Seattle, King  
County, Washington**

Dear Mr. Dewalt:

On September 14, 2005, Alaska Marine Lines Inc. 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 (CWA) for the Graving Dock Fill project. The U.S. Army Corps of Engineers issued a joint public notice for an individual Section 404 and Section 10 Permit on January 6, 2006, for the proposed project. The project proposes to strengthen the existing graving dock gates and fill the 1.34-acre graving dock with approximately 41,150 cubic yards of clean structural soil to expand terminal facilities of an inter-modal transportation facility.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the JARPA and the January 6, 2006, 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 September 14, 2005, Alaska Marine Lines Inc., submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). On February 24, 2006, Ecology and Alaska Marine Lines Inc. jointly requested a CZM extension from the Corps. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Alaska Marine Lines Inc.'s determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon Alaska Marine Lines Inc.'s compliance with all applicable enforceable policies of the CZMP, including Section 401 of the CWA.



Alaska Marine Lines Inc.  
September 7, 2006  
Page 2

This letter also serves as the State response to the Corps of Engineers' January 6, 2006, Public Notice.

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  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

GT:rrp:cja

Enclosure

cc: Susan Glenn, U.S. Army Corps of Engineers  
Laura Arber, Washington Department of Fish and Wildlife

e-cc: Penny Keys – HQ  
Loree' Randall – HQ

**IN THE MATTER OF GRANTING A ) ORDER #3680**  
**WATER QUALITY ) Corps Reference No. 200501087**  
**CERTIFICATION TO ) Fill of a 1.34-acre graving dock, Duwamish**  
**Alaska Marine Lines Inc. ) Waterway, located in King County, Washington.**  
in accordance with 33 U.S.C. 1341 )  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: Alaska Marine Lines Inc.  
Attn: Rod Dewalt  
5615 West Marginal Way SW  
Seattle, WA 98106

On September 14, 2005, Alaska Marine Lines Inc. submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on January 6, 2006.

The proposed project entails strengthening the existing graving dock gates and filling the 1.34-acre graving dock with approximately 41,150 cubic yards of clean structural soil to expand terminal facilities of an inter-modal transportation facility. The filled area will be paved over and used as a container storage area. The paved storage area will include a stormwater drainage system. The project is located at 5610 West Marginal Way SW, Seattle, King County, Washington, Section 19, Township 24 North, Range 4 East, WRIA #9.

#### **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:**

- A1. For purposes of this Order, the term "Applicant" shall mean Alaska Marine Lines Inc., and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #3680 and Corps Reference #200501087.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 14, 2005. 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 Section 404 and Section 10 permits.
- 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. 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.
- A10. 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 or mitigation sites.
- 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) per violation for each day of continuing noncompliance.

**B. Project Mitigation:**

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following document, except as modified by this Order:

"Planting Plan for Alaska Marine Lines" (Planting Plan) by Spearman Engineering, PS, August 21, 2006.

- B2. In addition to conditions in the above-referenced documents, the following requirements shall be conditions of this Order:

- a. Timing: Construction and installation of compensatory mitigation must occur before or at the same time as project impacts on aquatic resources.
- b. Baseline Monitoring Report: A baseline monitoring report documenting the final design of the mitigation area must be prepared when site construction and planting are completed. The report shall include the following:
  - i. Vicinity map showing site access.
  - ii. Drawings that clearly identify in plan view the location and square footage of the planted area.
  - iii. The installed planting scheme showing approximate locations of plants and the time of planting.
  - iv. Photographs of the area taken from permanent reference points.
  - v. Locations of photopoints, and sampling sites.
  - vi. A description of any changes to the mitigation plan that occurred during construction.

A copy of the baseline monitoring report shall be sent to Richard Robohm, wetland specialist at Ecology, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452, within 60 days of completing construction, and in no case later than April 30, 2007.

- c. Site Protection: Permanent protection of the native vegetation planting area shall be recorded on the appropriate property deed. Documentation that this requirement has been fulfilled shall be provided to Richard Robohm at Ecology at the same time as the as-built report.
- d. Field Supervision: Site preparation shall be inspected and plant installation shall be field-supervised by a qualified wetland consultant to ensure that plants are healthy, meet specifications and are appropriately placed.
- e. Monitoring: In addition to the measures described in the Planting Plan, monitoring protocols for vegetation should include measures of vegetation cover at a 1-square-meter quadrat randomly offset by 2 to 3 feet from each of the five shore pines. Monitoring shall take place over a period of five years, with monitoring performed in years 1, 2, 3, and 5. **Copies of all monitoring reports shall be submitted to Richard Robohm, wetland specialist at Ecology, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Reports shall display the Order #3680.**
- f. Performance Standards: In addition to the performance standards in the Planting Plan, invasive non-native species shall have a maximum combined cover of less than 15 percent for all non-native species (including Himalayan and evergreen blackberry, Scots broom, etc.) throughout the monitoring period.

- g. Maintenance: The Applicant is responsible for maintenance and protection of the native vegetation planting area both throughout and after the 5-year monitoring period.

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

- C1. 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 water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup or surface waters or sediments occurring as a result of project construction or operations.
- C2. Turbidity shall be visually assessed and recorded at a minimum of every four (4) hours during periods of active in-water work. Monitoring points shall be immediately upstream (representative background), 300 feet downstream, and at the discharge point. A turbidimeter is recommended, however, visual gauging of turbidity is acceptable. Visible project-related turbidity at 300 feet below the discharge point is considered to be an exceedance of the standard. If an exceedance of 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a twenty (20) percent increase in turbidity when the background turbidity is more than 50 NTU, occurs at 300 feet below the project site, modify the activity causing the problem and continue to monitor every four (4) hours. If exceedances occur with two (2) consecutive measurements (four (4) hours apart), stop the activity causing the turbidity until the problem is resolved.
- C3. Project activities shall be conducted to minimize siltation of the beach area and bed.

**D. Stormwater Conditions:**

- D1. Construction stormwater, sediment, and erosion control BMPs (*e.g.*, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- D2. The Applicant shall obtain and comply with the Construction Stormwater General Permit for this project.
- D3. A permanent stormwater treatment system shall be installed to address stormwater after the filling of the graving dock. The new system shall consist of two underground vaults. The first vault shall include a hydrodynamic separator device for pre-treatment removal

of larger size fraction particulates and associated pollutants. This vault shall include a floatables containment baffle for removal of a portion of floatable materials. A second downstream vault shall contain modular pre-packaged canisters with filter media. The filtration system shall be designed to a treatment flow rate of 7.5 gpm/filter cartridge although higher flow rates up to 15 gpm may be used depending on the design conditions and hydrology basis. The treatment system shall be designed to the 6-month storm event. The treatment systems shall be regularly maintained per manufacturers' recommendations in order to maintain high treatment system performance.

**E. Construction Activity Conditions:**

- E1. Work shall be accomplished per the Joint Aquatic Resource Application, dated September 14, 2005; and the *Biological Evaluation, Alaska Marine Lines Graving Dock Fill Project, King County, Washington*, dated September 1, 2005, prepared by Spearman Engineering, PS, and Williwaw Scientific Support Services; except as modified by this Order.
- E2. As described in the JARPA, the existing steel graving dock gates shall be strengthened prior to filling. The graving dock doors shall remain closed as the permanent retaining wall is constructed immediately landward of the existing gate.
- E3. 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.
- E4. 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.
- E5. The Applicant shall remove all hazardous and toxic material from the graving dock prior to filling. Any toxic material must be disposed of at an appropriate upland facility.
- E6. BMPs shall be developed and implemented to ensure that no toxic or hazardous material enters the water during work.
- E7. Project activities shall not occur when the project area is inundated by tidal waters.
- E8. 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.
- E9. Clean Fill Criteria: Applicant shall ensure that fill (clean structural soil) placed for the proposed project does not contain toxic materials in toxic amounts.

- E10. Construction activities shall be conducted in the dry.
- E11. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.
- E12. If barges are required, the vessel operation shall be restricted to tidal elevations adequate to prevent grounding of the barge.

**F. Emergency/Contingency Measures:**

- F1. 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.
- F2. The Applicant 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.
- F3. 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.
- F4. 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 or spill.
  - 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 this condition 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.

### **G. Timing Requirements**

- G1. This Order is valid until all compliance requirements in this document have been met.
- G2. 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.

### **H. Reporting and Notification Requirement Conditions**

- H1. 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 Corps Reference #200501087, Order #3680, can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

### **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

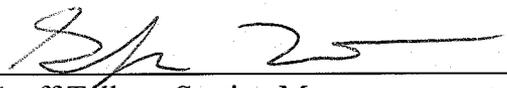
Your appeal must also be served on:  
The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, Washington 98504-7608.

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 September 7, 2006 at Bellevue, Washington.

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

**ATTACHMENT A**

**ALASKA MARINE LINES INC.  
GRAVING DOCK FILL PROJECT  
Water Quality Certification Order #3680**

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

I have read and understand the conditions of Order #3680 Section 401 Water Quality Certification for the Alaska Marine Lines Inc., Graving Dock Fill Project. I have also read and understand all permits, plans, documents, and approvals associated with the Alaska Marine Lines Inc. Graving Dock Fill Project referenced in this Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company