



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

April 17, 2007

**REGISTERED MAIL**  
**RB 670 438 280 US**

Mr. Abe Santos  
City of Bellevue  
Post Office Box 90012  
Bellevue, Washington 98009

RE: Water Quality Certification Order #4171 and Coastal Zone Management Consistency Determination for U.S. Army Corps of Engineers (Corps) Reference #200501209 for Sewer Line Repairs, City of Bellevue, King County, Washington

Dear Mr. Santos:

On January 24, 2007 the Washington State Department of Ecology (Ecology) received a Joint Aquatic Resources Permit Application (JARPA) from the City of Bellevue requesting a Section 401 Water Quality Certification for the City of Bellevue Sewer Main Repairs project. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-mentioned project pursuant to the provisions in Chapter 173-225 WAC on January 8, 2007.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the original JARPA submitted on January 24, 2007, and in the public notice (January 8, 2007) 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 February 16, 2007, Ecology received a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP) form for this project from the Corps. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the City of Bellevue's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the City of Bellevue's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the CWA.



Mr. Abe Santos  
April 17, 2007  
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If you have any questions, please contact Cynthia Walcker, Federal Project Coordinator at (425) 649-4318, [cynt461@ecy.wa.gov](mailto:cynt461@ecy.wa.gov). 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:csw:cja

Enclosure

cc: Amy Klein, U.S. Army Corps of Engineers  
Stewart Reinbold, Washington Department of Fish and Wildlife, Region 4

e-cc: Penny Keys – Ecology, HQ  
Loree' Randall – Ecology, HQ  
Erik Stockdale, Ecology, NWRO

**IN THE MATTER OF GRANTING A ) ORDER #4171**  
**WATER QUALITY ) Corps Reference No. 200501209**  
**CERTIFICATION TO ) Place of Clean Fill (1040 cubic yards) Over**  
**City of Bellevue in accordance with 33 ) Exposed Areas of Sewer Line (2100 Lineal Feet)**  
 U.S.C. 1341 (FWPCA § 401), RCW ) in Lake Washington at 21 Locations and Install  
 90.48.120, RCW 90.48.260 and Chapter ) Two New Sewer Manholes and Two 8-inch  
 173-201A WAC ) Ductile Iron Pipes, City of Bellevue, King  
 ) County, Washington  
 )

TO: Mr. Abe Santos  
 City of Bellevue  
 Post Office Box 90012  
 Bellevue, Washington 98009

On January 24, 2007 the Washington State Department of Ecology (Ecology) received a Joint Aquatic Resources Permit Application (JARPA) from the City of Bellevue requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-mentioned project pursuant to the provisions in Chapter 173-225 WAC on January 8, 2007.

The proposed project entails: placing 1,040 cubic yards of washed well-rounded rock (1/2-inch to 1 1/2-inch), clean quarry spalls (3-inch to 4-inch), and clean sand over 2100 linear feet of the existing pipe from the lake bottom up. Additionally, the project includes installation of an 8-inch pipe to the existing sewer pipe in order to install a manhole for upland maintenance and cleanout purposes at two locations including: Clyde Hill Beach Park and 419 Lake Washington Boulevard Northeast.

The project site is located on the east shore of Lake Washington in the City of Bellevue, King County, Washington. The project area lies in Township 25 North, Range 04 East, Range 05 East, Section 25 and Section 31, at 21 locations. The existing sewer pipe runs parallel to the shoreline, typically within 5 feet to 10 feet of the shoreline except for one location where it is approximately 45 feet from shore. The project area is located within the Cedar/Sammamish Water Resource Inventory Area (WRIA 8).

**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 City of Bellevue 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 Coordinator, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #4171 and Corps Reference #200501209.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 24, 2007. 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 of Engineers 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. Water Quality Conditions**

- B1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i)(D). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

## **C. In-Water Construction Water Quality Sampling and Monitoring**

- C1. The Applicant shall submit to Ecology for review and approval a Water Quality Monitoring Plan for in-water construction 60 days prior to the start of construction. "In-water construction" is defined as all work below the ordinary high water mark of Lake Washington. Ecology may require changes and modifications to the Plan. The Plan shall include the following minimum requirements:
- a. Locations of samples: Locations of water quality sampling sites shall be identified and described in the plan and on a map of the project area. At a minimum, sampling shall take place at the surface (2.0 feet below), mid-depth, and near the bottom (2.0 feet above) at the point of compliance as specified in WAC 173-201A-200(1)(e)(i), which allows a 150-foot temporary mixing zone for turbidity resulting from disturbance of in-place sediments in Lake Washington and at a radius of 200 feet from the point of discharge. Background samples shall be collected outside the area of influence of the in-water work. Background samples shall be collected at the same frequency as the point of compliance samples.
  - b. Number of samples: Samples shall be collected per the Water Quality Monitoring Plan. Additional sampling may be required if turbidity exceedances are observed or measured to be above the temporary mixing zone criteria of WAC 173-201A-200(1)(e)(i).
  - c. Parameter to be sampled: Turbidity shall be sampled for this project.
  - d. Equipment: Sampling for turbidity is to be accomplished using a turbidimeter properly calibrated according to the operator's manual or transparency tube.
  - e. Detection of exceedances: Water quality standards for turbidity in Salmonid Spawning, Rearing, and Migration waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-200(1)(e)(i) are detected through water quality sampling and monitoring, the

Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the effectiveness of the site Best Management Practices (BMPs) and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.

- f. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Water Quality Protection Plan, shall be forwarded to Ecology on a weekly basis in accordance to Condition A2.
- g. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #4171, Attn: 401/CZM Federal Project Coordinator, by telephone at (425) 649-4318 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
  - i. A description of the nature and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
  - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
  - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology 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, photographs, and any other pertinent information.

C2. The Applicant shall be responsible for implementing the Water Quality Monitoring Plan subject to Ecology review and approval.

#### **D. Conditions for Sewer Line Repair Construction Activities**

- D1. Work in or near waters of the state shall be done so that it minimizes turbidity, erosion, and other water quality impacts.
- D2. Construction stormwater, sediment, and erosion control Best Management Practices (*e.g.*, a perimeter erosion control silt fence for upland work, etc.) suitable to prevent

exceedances of state water quality standards shall be in place before starting construction at the site and shall be maintained throughout construction.

- D3. All construction debris and all manmade debris shall be disposed of upland so that it cannot enter a waterway or cause water quality degradation to state waters.
- D4. 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.
- D5. 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.

#### **E. Conditions for Sewer Pipe Installation Construction Activities**

- E1. Prior to in-water work the Applicant shall install a cofferdam or portadam system to prevent water from entering the work area.
- E2. Any water that enters the cofferdam/portadam during the excavation process "shall be considered turbid water and shall be pumped into Baker tanks at the shore or on an adjacent barge. The turbid water shall be allowed to settle within the Baker tank and eventually discharged to the existing sewer system." (*Sequence for Sewer Pipe Installation in Lake Washington*, Pg. 1, dated February 27, 2007)
- E3. Following completion of the in-water work portion of the sewer pipe installation, the Applicant shall slowly reintroduce water back into cofferdam/portadam and pump that water into on-site Baker tanks prior to permanently releasing water back into the work area per the document, "*Sequence for Sewer Pipe Installation in Lake Washington*, Pg. 2, dated February 27, 2007."
- E4. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter Lake Washington.
- E5. Fresh, uncured concrete in direct contact with water is toxic to aquatic life. All concrete shall be poured in the dry and shall be completely cured prior to coming into contact with state waters.
- E6. A separate area shall be set aside, which does not have any possibility of draining to surface waters, to wash out concrete trucks, pumping equipment, and tools. If a temporary wash out pond is created the Applicant will line the pond with heavy duty plastic.

- E7. No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals or other substances harmful or toxic to fish shall be applied to the new pipes once they have been placed within the ordinary high water mark of Lake Washington.
- E8. All construction debris and all manmade debris shall be disposed of upland so that it cannot enter a waterway or cause water quality degradation to state waters.

#### **F. Timing Requirements**

- F1. This Order is valid until all compliance requirements in this document have been met.
- F2. 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.

#### **G. Duration of Water Quality Certification**

This WQC shall remain in effect for the duration of the Corps permit associated with this project.

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

- H1. The Applicant shall notify Ecology's 401/CZM Federal Project Coordinator at (425) 649-4318 or (425) 649-7000, fax (425) 649-7098, or in writing, referencing Corps Reference #200501209, Order #4171.
  - H1a. at least seven (7) days in advance of the pre-construction meeting.
  - H1b. at least three (3) days prior to the start of construction at the project site.
  - H1c. within 14 days after completion of construction at the project site.

#### **I. Emergency/Contingency Measures**

- I1. The Applicant shall develop 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.

- I2. The facility shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material including sewage into waters of the state.
- I3. 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.
- I4. 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 Coordinator at (425) 649-4318 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.

- I5. 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.

#### **J. 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 April 17, 2007 at Bellevue, Washington.

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

**ATTACHMENT A**

**City of Bellevue  
Water Quality Certification Order #4171**

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

I have read and understand the conditions of Order #4171 Section 401 Water Quality Certification for the City of Bellevue Sewer Line Repair Project. I have also read and understand all permits, plans, documents, and approvals associated with the City of Bellevue Sewer Line Repair Project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company