



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

May 26, 2006

Ms. Jamie Sowers
Port of Ilwaco
P.O. Box 307
Ilwaco WA 98624

RE: Water Quality Certification - Order #3320/Corps Public Notice 199901252P

Dear Ms. Sowers:

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.

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
Shorelands and Environmental Assistance Program

cc: Karla Ellis - Portland Corps
Catie Fernandez - CREST
Penny Keys - Ecology HQ



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

**ORDER #3320
Corps Reference No. 199901252P
Dredge up to a total of 400,000 cubic
(cy) of material from Baker Bay,
Pacific County, Washington over the
next ten (10) years.**

TO: Ms. Jamie Sowers
Port of Ilwaco
P.O. Box 307
Ilwaco, WA 98624

The Port of Ilwaco (Port) currently has a Water Quality Certification (Certification) to dredge up to 400,000 cubic yards of material from Baker Bay. The existing Certification authorizes dredging and upland disposal through September 25, 2007.

In response to the Port request for an extension of time, as well as to use West Sand Island as the new disposal site, the U.S. Army Corps of Engineers (Corps) issued a new public notice on June 28, 2005. Since the public notice was issued, the Port has indicated that they no longer need a new upland disposal site at West Sand Island and will continue to use the current confined disposal site on Port-owned property.

Ecology is issuing a new Certification to the Port approving the extension. This certification rescinds all previous certifications issued to the Port under Corps Number 99-1252 or 199901592.

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 pretreated 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 Port of Ilwaco, 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 98504-7600. Any submittals shall reference Order No. 3246 and Corps No. 200501451P.
3. Work authorized by this Order is limited to the work described in the Public Notice received by Ecology on June 28, 2005. The Applicant will be out of compliance with this Order.
4. Within 30 days of receipt of updated information or a Public Notice, 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 provisions 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:

1. No Further Impairment of Existing Water Quality.

Baker Bay, Columbia River Estuary, (WRIA 24), 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 (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(2) 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(3). Furthermore, nothing in this certification shall absolve the Port of Ilwaco from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operation.

2. Baker Bay at the mouth of the Columbia River has been identified on the current 303(d) list of impaired water bodies as exceeding water quality standards for fecal coliform and total PCB's. The fecal coliform measurements were taken directly in the Ilwaco Marina. The proposed project shall not result in a further exceedance of this standard, and will be out of compliance with this certification if discharges from the project exceed limits for those contaminants identified in 173-201-030(2) WAC and/or 173-201A-040 WAC.

C. Dredging and Disposal:

1. Dredging: 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 substance into waters of the State.
2. All dredging is to be done using a pipeline dredge. Use of any other type of dredge will require prior approval from the DMMP agencies.
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. Disposal: The dredged material is to be disposed of at an adjacent upland location on property owned by the Port. "Best management practices" applicable to the construction and use of a confined disposal facility shall be applied to this project.
 - a. The upland disposal of hydraulically dredged sediment shall be into a dewatering basin that is properly designed, constructed, and maintained to contain the dredge slurry. The base of the weir structure, should one exist, shall be reinforced to prevent undercutting. A supply of berm material or sand bags should be available if needed to repair or reinforce the berms.
 - b. Berms and overflow weirs shall be designed to maintain a minimum pond depth of two feet whenever a discharge is occurring. The pond will be considered to be at capacity once sediment is within two feet of the top of the weir and/or berms. The remaining two feet of pond water can be drained by lowering the weir, but not before allowing sufficient time for suspended solids to settle out.
 - c. Weir height shall be raised as necessary to provide efficient ponding. The dredger should not wait until solids begin to carry over before raising the weir. Weirs shall be kept level and have a tight fit. Weirs should be of sufficient height and length to maintain a water depth of from two to a maximum of four inches over the weir at maximum dredging flows.
 - d. The progress of the fill, and hence the configuration of the remaining pond, is controlled largely by the dredge discharge pipe location. Pipes should be extended or moved as necessary to maintain an efficient ponding configuration. Coarser dredged material shall be stockpiled round the perimeter, where practical, to avoid reducing pond size unnecessarily.
 - e. The dredging rate shall not reach a level that result in noncompliance with the effluent limitations and/or water quality criteria at the discharge point. The level of settleable solids in the discharge shall be maintained below 50 ml/L.

D. Short-Term Modifications to the Water Quality Standards:

The dredging and/or discharge of return water may have water quality effects that will exceed the state water quality standards specified in chapter 173-201A WAC. Per Section 173-201A-110, the Department may grant a "Modification to the Standards" to allow for exceedances of the standards on a short-term basis.

1. The project reach is classified as Class A waters; thus, Class A water quality standards of 173-201A-030(2) apply, except as specifically modified by this order.
2. Temporary mixing zones (zones of disturbance) are authorized for the dredging operation and the discharge of return water to allow for temporary exceedances of certain water quality standards. The following mixing zones are considered reasonably sufficient to allow for the temporary impacts of dredging and return water discharge:

Hydraulic Dredging: 150 feet radially from the point of dredging.

Return Water Discharge: radially from the point of discharge.

Within the mixing zones, the following modifications are granted:

Turbidity: Class A standards for turbidity are waived within the mixing zone.

Dissolved Oxygen: Class A standards for DO are waived within the mixing zone but shall not be caused to drop below 5.0 mg/l.

All other applicable water quality standards shall remain in effect in the mixing zones and all water quality standards are expected to be met outside of the mixing zones.

3. **Duration:** As a result of recent changes to the water quality standards (Chapter 173-201A WAC, "modifications to the standards" may be issued for indefinite periods of time. Thus the modification allowance for temporary dredging and return water discharge is granted for the same duration as the water quality certification, that being for a period of five years.

The intent of a "modification to the standards" as a means to temporarily waive a water quality standard needs to be made clearer given the extended period of approval. The waiver of a water quality parameter (such as turbidity) within a specified dilution zone is intended only for brief periods of time (such as a few hours) and is not an authorization to exceed the turbidity standard for the entire duration of construction. In no case does the waiver authorize degradation of water quality that significantly interferes with or becomes injurious to characteristic water uses or causes long-term harm to the waters of the effected reach of the lower Columbia River. Also, the modification does not authorize any work or impacts to the water quality during closure periods specified by the Department of Fish and Wildlife.

A modification is also granted on condition that all reasonable and appropriate "best management practices" are being undertaken to reduce the impacts that may cause exceedances of the water quality standards.

E. Monitoring:

Water Quality Monitoring during Construction: The following monitoring requirements shall be undertaken to assess the water quality effects of the dredging operation and sediment dewatering. The results will be used to: 1) assess compliance with water quality standards; 2) provide notification of any exceedance of a standard; and 3) assess the need for continuing the monitoring activity and appropriate frequency of monitoring if monitoring is to continue.

1. Monitoring is required daily for the first week of continuous dredging/dewatering operation. Three locations shall be sampled in the receiving waters; one at the mixing zone boundary, one at the mixing zone midpoint, and one at a reference site. If appropriate, a single reference site can be used for both the dredging operation and the barge dewatering operation.
2. At the three monitoring locations, water samples shall be taken at the surface (2.0 feet below), mid-depth, and near bottom (2.0 feet above). Samples taken within the mixing zone and at the mixing zone boundary shall be adjusted within the depth range to target the turbidity plume which will be tracked visually and/or hydro-acoustically. If no distinct turbidity plume can be identified within the depth range, the samples will be taken at the standard depths (i.e., surface, mid-depth, and near bottom).
3. Water sampling shall be analyzed for dissolved oxygen (DO), turbidity, temperature, and salinity. If DO is determined by a DO meter instead of the Winkler method, calibration of the instrument and probe shall be performed across the range of DO levels likely to occur in the marine waters. Documentation of calibration shall be included in the report sent to Ecology.
4. The results of the monitoring will be faxed to Ecology as soon as they become available, Attn: Helen Pressley at (360) 407-6902. An exceedance of the water quality standards could result in corrective action depending upon the degree of the exceedance and/or the risk posed by the exceedance to beneficial uses of the water body.

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, contamination 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 Southwest Regional Spill Response Office at (360) 407-6300, 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.
 4. In the event of finding distressed or dying fish, the operator 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. The department may require such sampling and analyses before allowing the work to resume.

G. 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). 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 a separate certification.

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.

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, WA 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

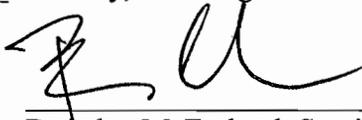
In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, WA 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 Chapter 42.21B RCW.

Dated May 26, 2006 at Lacey, Washington



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 Port of Ilwaco boat basin dredging project, located at Outer Harbor Way, Ilwaco, Pacific County, Washington. I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order #3320 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company