



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 3, 2006

REGISTERED MAIL  
RB 253 008 430 US

Mr. Dave Peterson  
73 Salmon Beach  
Tacoma, WA 98407

RE: Water Quality Certification Order 3105 for Corps Public Notice No. 200400737 to remove an existing 1,878 square foot over water single-family residence and construct a new 1,776 square foot multi-level single-family residence within the ordinary high water mark of the Tacoma Narrows, Puget Sound located at Number 73 Salmon Beach, Tacoma, Pierce County, Washington

Dear Mr. Peterson:

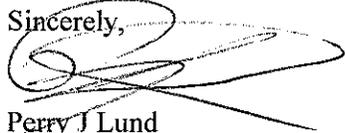
On June 23, 2005, Mr. Dave Peterson submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the removal of an existing 1,878 square foot over water single-family residence and the construction of a new 1,776 square foot multi-level single-family residence. The U.S. Army Corps of Engineers issued a public notice on March 8, 2005 for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the 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.

This letter also serves as the State response to the Corps of Engineers' March 8, 2005 Public Notice.

If you have any questions, please contact Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



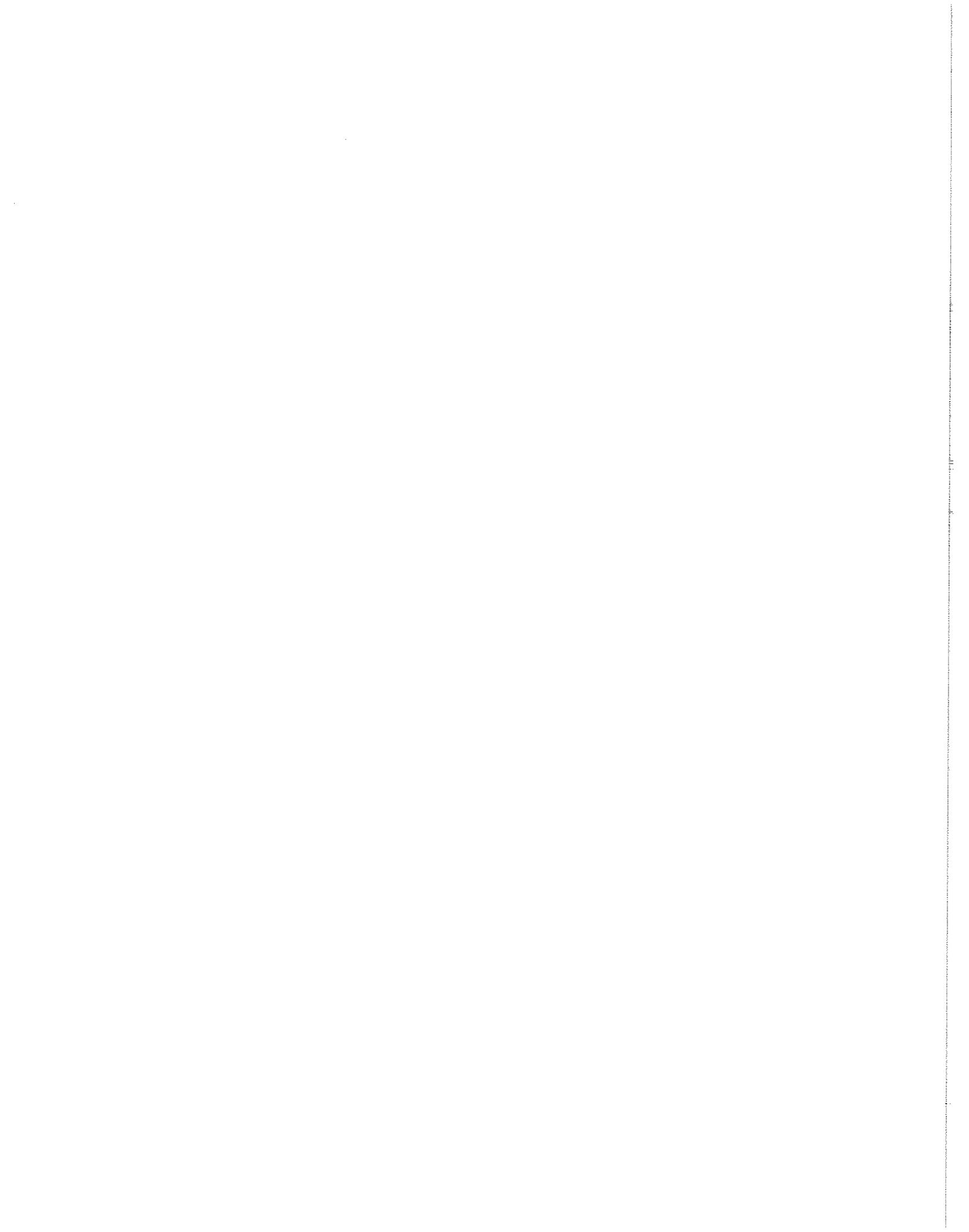
Perry J Lund  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

LO:th

Enclosure

cc: Ron Wilcox, Corps of Engineers  
Dave Molenaar, WDFW  
Katie Hayashi, City of Tacoma  
Daniel L. Andrews





**IN THE MATTER OF GRANTING A  
WATER QUALITY CERTIFICATION  
TO**

**Mr. Dave Peterson**

in accordance with 33 U.S.C. 1341 (FWPCA  
§ 401), RCW 90.48.120, RCW 90.48.260  
and Chapter 173-201A WAC

) **ORDER # 3105**  
) **Corps Reference No. 200400737**  
) Removal of an existing 1,878 square foot over water  
) single-family residence and the construction of a new  
) 1,776 square foot multi-level single-family residence  
) within the ordinary high water mark of the Tacoma  
) Narrows, Puget Sound located in Pierce County,  
) Washington.  
)

TO: Mr. Dave Peterson  
73 Salmon Beach Road  
Tacoma, Washington 98407

On June 23, 2005, Mr. Dave Peterson 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 Chapter 173-225 WAC on March 8, 2005.

The proposed project entails the removal of an existing 1,878 square foot over water single-family residence and the construction of a new 1,776 square foot multi-level single-family residence. The existing structures are supported by forty seven (47) creosote treated timber pilings. Thirty-six (36) of the creosote pilings will be removed and eleven (11) will be left in place for use under the new structures. The thirty six (36) removed pilings will be replaced with twenty five (25) Chemonite (ACZA) treated pilings. A total of 36 pilings will support the new over water structure within the ordinary high water mark of the Tacoma Narrows, Puget Sound at 73 Salmon Beach Road, Tacoma, Pierce County, Washington; NE ¼ of Section 22, Township 21 North, Range 2 East, WRIA No. 12 and Chambers-Clover Watershed.

**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 Mr. Dave Peterson, and his agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Region, Attn: Federal Permit Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. **3105** and Corps No. 200400737.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 23, 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.
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 U.S. Army Corps of Engineers does not issue a Section 404 or Section 10 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 construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. 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.
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, downstream 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. No Further Impairment of Existing Water Quality:**

1. This segment of Puget Sound (WRIA#12) is a Class AA 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(1) and WAC 173-201A-040 shall apply to this project. This Order does not authorize temporary exceedances of the turbidity standard 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 of surface waters or sediments occurring as a result of project construction or operations

**C. Timing:**

1. This Order is valid until all compliance requirements in this document have been met.
2. In water work shall be subject to the timing limitations imposed by the Washington Department of Fish and Wildlife's Hydraulic Project Approval Number: 103613-1, issued to Dave Peterson on December 12, 2005.

**D. Notification Conditions:**

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Federal Permit Coordinator in writing at least fourteen (14) days prior to the start of work below the ordinary high water mark of Puget Sound.
2. The Applicant shall provide written notification to Ecology's Southwest Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

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

**E. Construction Conditions:**

1. Work in or near waters of the state shall be done so that it minimizes turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control best management practices suitable to prevent exceedances of state water quality standards shall be in place before starting work at the impact sites.
2. Uncured concrete and concrete by-products shall be completely sealed off from the ordinary high water mark (OHWM) and wetted perimeter of Puget Sound, totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter the OHWM or wetted perimeter of Puget Sound.
3. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris or other bed material) shall be relocated or used as bulkhead armor, as fill, or for any other purpose **except** that bed material located exactly where the new pilings and footings are to be placed may be relocated.
4. All excess excavated 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.
5. All construction debris shall be properly disposed of upland so that it cannot enter a waterway or wetland or cause water quality degradation to state waters.
6. Machinery and equipment used during construction shall be serviced, fueled, and maintained in a manner to prevent contamination to surface waters.
7. A separate area shall be set aside which does not have any possibility of draining to surface waters to wash out concrete delivery trucks, pumping equipment, and tools.
8. Wash water containing oils, grease, or other hazardous material 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. Equipment that is not barge-mounted and will be in contact with waters of the State must be cleaned before coming on-site.
9. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface water and/or wetlands.
10. Any wooden deck components, piling, pier support, and other materials composed of pressure treated wood shall be professionally and commercially produced and chemically fixed in accordance with all current best management practices as contained in the Western Wood Preservers Institute's latest edition of "The Best Management Practices for the Use of Treated Wood in the Aquatic Environments."

- 11 No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals, or other substances harmful or toxic to fish or shell fish shall be applied to the over-water portion of the structures once it has been placed within or over the OHWM of Puget Sound

**F. Water Quality Monitoring and Reporting Conditions:**

1. During and immediately after project construction, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance. If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or their contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Applicant or their contractor shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at the Southwest Regional Office at (360) 407-6926 of the exceedances
2. If the results of the monitoring shows that the water quality standards or project performance standards are not being met additional monitoring and mitigation may be required.
3. Any changes to the monitoring requirements must be approved in writing by Ecology.

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials available on site.
2. Any 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 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 Southwest Regional Spill Response Office at (360) 407-6300 of the nature of the problem and any actions taken to correct the problem and any proposed changes in operations to prevent further problems.

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's Southwest Spill Response Office at (360) 407-6300.

#### **H. 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 3 MARCH 2006 at Lacey, Washington.



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Perry J Lund, Unit Supervisor  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington

Attachment # A  
Water Quality Certification, Order # 3105  
Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for Mr. Dave Peterson in the removal of an existing 1,878 square foot over water single-family residence and the construction of a new 1,776 square foot multi-level single-family residence within the ordinary high water mark of the Tacoma Narrows, Puget Sound located in the City of Tacoma, Pierce County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #3105 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company

