



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (for the speech or hearing impaired)

REGISTERED MAIL

March 29, 2006

Mr. Brian McGuire
Day Island Yacht Harbor
1855 E Day Island Blvd
University Place WA 98466

RE: Water Quality Certification - Order #2610/Corps Public Notice 200401240 -
Maintenance dredging of a total of 46,000 cubic yards (cy) over a period of 10 years,
University Place, Pierce County, Washington.

Dear Mr. McGuire:

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.

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,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

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

cc: Seattle Corps – Koko Cronin
Penny Keys – Ecology HQ



IN THE MATTER OF GRANTING A) ORDER # 2610
WATER QUALITY) Corps Reference No. 200401240
CERTIFICATION TO) Maintenance dredging of a total of 46,000 cy
Day Island Yacht Harbor) over a period of 10 years, located in University
in accordance with 33 U.S.C. 1341) Place, Pierce County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Mr. Brian McGuire
Day Island Yacht Harbor
1855 E Day Island Blvd
University Place WA 98466

On April 13, 2005 Day Island Yacht Harbor 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 January 19, 2006.

The proposed project is located in the Southwest quarter of Section 4, Township 20 North, Range 2 East, WRIA 12 Chambers Clover, and entails 10 years of maintenance dredging of up to 46,000 cubic yards (cy) of material to -10 mean lower low water (MLLW) with a 1 foot overdredge allowance (-11 MLLW). The dredging for Year 1 would remove up to 23,000 cy with subsequent events at Year 5 (11,500 cy) and Year 10 (11,500 cy). The dredging would take place via hydraulic and clamshell dredging and be loaded onto a bottom-dump barge for transfer to an open-water disposal site. The proposed dredging would impact 1980 square feet of eelgrass within the boat basin. To facilitate dredging, the applicant would remove the existing creosote piles and steel piles; temporarily remove all the ramps, floats, guide piles and boathouses located within the boat basin to an area that would not obstruct navigation. Once the floats and boat houses are repositioned in the marina, all piles replaced will be either steel or concrete.

At the northwestern side of the boat basin, 218 linear feet (lf) of steel sheet pile bulkhead will be installed at or above the line of mean higher high water (MHHW). Waterward of the proposed bulkhead and above the plane of MHHW, the applicant proposes to install 16 lf of 12" diameter storm drain diffuser which would be connected to the storm drain pipe leading from North Day Island Blvd. The waterward section of the storm drain pipe and concrete debris would be removed. Twenty-three feet waterward of the new bulkhead, the applicant proposes to install 200 lf of a buried sheet pile toe wall to prevent slumping of the mudflat into the basin after the proposed dredging. The mudflat between the two proposed bulkheads would be excavated (up to 110 cy) to install tie rods. The excavated material would then be used to cover over the installed tie rods.

At the northern section of the boat basin, the applicant proposes to install 85 lf of steel sheet pile bulkheading with concrete backfill (16 cy) to stabilize the existing deteriorating timber bulkhead.

The applicant also proposes to install 6 navigation buoys at the opening to the basin, set on 30 foot (ft) centers and grounded with concrete anchor blocks.

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 Day Island Yacht Harbor, and its agents, assignees and contractors.
2. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 13, 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.

3. 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.
4. This Order shall be rescinded if the Army Corps of Engineers does not issue an individual 404 water quality permit.
5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.

Day Island Lagoon, (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(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 Day Island Yacht Harbor from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

C. Construction:

1. Work in or near waters of the state shall be done so as to minimize 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 (e.g., detention areas, filter fences, silt curtains, etc.), shall be in place before starting clearing, filling, or grading work at the impact site. BMPs shall be maintained throughout construction.
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. Piling Removal and Placement:
 - a. During piling removal a containment boom and absorbent pads shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as piling is pulled. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
 - b. During inwater work the Applicant shall have a boat available on site at all times to retrieve debris from the water.

- c. Piles removed from substrate shall be moved immediately from the water into the barge lined with filter fabric or straw bales around the perimeter or upland into an area that is similarly contained. The pile shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
 - d. All existing creosote treated pilings shall be completely extracted, removed from marine waters, and disposed of at an approved upland disposal site. If the pilings are unable to be completely removed they shall be cut off at a minimum of three (3) feet below grade as required by the Washington Department of Fish and Wildlife Hydraulic Project Approval. The hole then shall be capped with clean sand.
 - e. All new pilings shall be steel.
 - f. The Applicant shall employ a bubble curtain around steel piles when using an impact hammer. The bubble curtain shall be deployed in a manner to ensure that bubbles completely engulf the piles during the impact driving.
7. Stormwater Outfall:
- a. The stormwater pipe outfall shall be protected from scour or other erosion.
 - b. Stormwater from this outfall shall be treated prior to its discharge into Day Island Lagoon.
 - c. The stormwater diffuser shall be inspected regularly to prevent any blockages.

D. Dredging and Disposal:

1. All dredging is to be done using a floating clamshell or hydraulic dredge. Use of any other type of dredge will require prior approval from the DMMP agencies.
2. Initially, 23,000 cubic yards of dredged material will be disposed of at the nondispersive (or dispersive) open-water disposal site in Commencement Bay or for beneficial use. Prior to dredging the remaining 23,000 cy of material, the DMMP agencies will determine if further sampling is required.
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 appropriate upland locations.
4. A **Dredging Plan** is required and shall be made available for review and approval at the pre-dredge 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.

E. 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, including wetlands, 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 Southwest Regional Spill Response Office at (360) 407-6300.
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. Construction monitoring: During and immediately after project construction, the Applicant or contractor shall visibly monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
5. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, turbidity, and erosion control Best Management Practices suitable to prevent exceedances of state water quality

standards shall be in place before starting clearing, filling, and grading work at the impact site.

F. 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) #103127-1 dated October 5, 2005. 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 separate certifications every ten years.

G. 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.

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 March 29, 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 Day Island Yacht Harbor, 1855 E Day Island Blvd, Pierce County, Washington. I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order #2610 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company