



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

September 19, 2006

REGISTERED MAIL  
RB 252 974 008 US

Gary and Naomi Baker  
P.O. Box 478  
Seaview, WA 98644

REGISTERED MAIL  
RB 252 974 056 US

City of Long Beach  
ATTN: Mr. Robert Strope  
P.O. Box 310  
Long Beach, WA 98631

RE: Water Quality Certification Order **3830** for Corps Public Notice No. **200500431** to construct a condominium complex and extend 4<sup>th</sup> Street North within the City of Long Beach, Pacific County, Washington.

Dear Applicants:

On April 7, 2005, Gary and Naomi Baker and the City of Long Beach, 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 proposed Shandalah Shores Condominium Complex. A revised JARPA was submitted on March 27, 2006. The project proposes to construct a condominium complex within a 1.25 acre development area and to extend 4<sup>th</sup> Street North within the City of Long Beach. Activities associated with this project include: the construction of 80 condominiums, 81 parking spaces, an emergency vehicle cul-de-sac, and the extension of 4<sup>th</sup> Street North approximately 1200 feet west along its existing right-of-way. Stormwater runoff will be conveyed into the existing municipal system and utilities will be located within the existing street right-of-way. The U.S. Army Corps of Engineers issued a public notice on September 19, 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' September 19, 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,



Paula Ehlers  
Section Manager  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

PE:LO:th  
Enclosure

cc: Ron Wilcox – U.S. Army Corps of Engineers  
Francis Naglich - Ecological Land Services

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 3830</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200500431</b>
<b>CERTIFICATION TO</b>	)	To construct an 80 unit condominium complex
<b>Gary and Naomi Baker and</b>	)	with associated parking and utilities, and extend
<b>The City of Long Beach</b>	)	4 <sup>th</sup> Street North within the City of Long Beach,
in accordance with 33 U.S.C. 1341	)	Pacific County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	
	)	

TO: Gary and Naomi Baker  
P.O. Box 478  
Seaview, WA 98644

The City of Long Beach  
ATTN: Mr. Robert Strope  
P.O. Box 310  
Long Beach, WA 98631

On April 7, 2005, Gary and Naomi Baker and the City of Long Beach 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 September 19, 2005. A revised JARPA was submitted on March 27, 2006.

The proposed project entails the construction of a condominium complex within a 1.25 acre development area and the extension of 4<sup>th</sup> Street North. The project is located at the west end of 4<sup>th</sup> Street North, within the City of Long Beach, Pacific County, WA 98631; Southeast Section 17, Township 10 North, Range 11 West, WRIA 24, Willapa Watershed. Activities associated with this project include: the construction of 80 condominiums, 81 parking spaces, an emergency vehicle cul-de-sac, and the extension of 4<sup>th</sup> Street North approximately 1200 feet west along its existing right-of-way. Stormwater runoff will be conveyed into the existing municipal system and utilities will be located within the existing street right-of-way.

The proposed project will impact 0.91 acres of categories II and IV, palustrine scrub-shrub and emergent interdunal wetlands and 0.71 acres of wetland buffer.

To compensate for the proposed wetland and wetland buffer impacts, off-site high quality wetlands will be preserved at a 6:1 ratio for wetland impacts and wetland buffer impacts will be compensated at a 1:1 ratio. A 6.17-acre mitigation-preservation site will be established at a high quality wetland on the Long Beach Peninsula. The mitigation site will be preserved for conservation purposes in perpetuity through a deed restriction.

## **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 Gary and Naomi Baker, the City of Long Beach and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. **3830** and Corps No. **200500431**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 7, 2005 and then revised March 27, 2006. 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 Corps does not issue a Section 404 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. 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 Applicants 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.

**D. Notification Conditions:**

1. The Applicant shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the onset of any work on the site.
2. The Applicant shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
3. The Applicant shall ensure that all appropriate project engineers and contractors at the project and mitigation sites shall 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 no less than seven (7) days before construction begins at the project site.

**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. Stormwater Management:**

1. The Applicant shall implement and comply with the most current NPDES Construction Stormwater General Permit issued for this project.

## **F. Construction Conditions**

1. The project area shall be clearly marked/staked prior to construction to protect adjacent wetlands and their buffers from construction impacts. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled. Equipment shall enter and operate only within the marked clearing limits, corridors and stockpile areas.
2. Work in or near waters of the state (including wetlands) shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
3. Erosion control devices (e.g., hay bales, detention areas, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained through construction.
4. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
5. 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.
6. Turbid water generated from construction activities, including turbid de-watering water, shall not be discharged directly to waters of the state, including wetlands. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters. All fueling areas shall be provided with adequate spill containment. Fueling equipment and vehicles within 50 feet of state waters and wetlands is not allowed.
8. 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.

## **G. Wetland Mitigation and Reporting Requirements:**

1. Project mitigation shall be provided as described in the *Wetland and Wetland Buffer Mitigation Plan for Shandalah Shores Condominiums and North 4<sup>th</sup> Street Extension City of Long Beach, Washington* revised March 20, 2006.
2. Compensatory mitigation-preservation shall occur prior to project impacts to wetlands.
3. The property owner shall grant Ecology access to the mitigation area for inspection.
4. Any changes to the proposed mitigation must be approved in writing by Ecology before they are incorporated into the plan or implemented on the ground.

5. **Deed Restriction:** Permanent protection of the wetland mitigation area and buffers shall be recorded on the property deed for the Wetland Mitigation-Preservation Site. The deed shall clearly indicate that the wetland mitigation area are "waters of the state". Documentation that this requirement has been fulfilled shall be provided to the Southwest Regional Office Federal Permit Coordinator within 60 days of permit issuance.

#### **H. Emergency/Contingency Measures:**

1. Adequate and appropriate spill response materials shall be kept on hand to respond to emergency release of petroleum products or any other material into waters of the state.
2. 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.
3. 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. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Permit Coordinator at (360) 407-6926.
  - c. Submit a written report to Ecology within five days 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, and any other pertinent information.

Compliance with this condition does not relieve the Applicants from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

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 Regional Spill Response Office at 360 407-6300.

#### **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 9-19-06 at Lacey, Washington.



---

Paula Ehlers, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology, Southwest Regional Office  
State of Washington



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

September 19, 2006

CERTIFIED MAIL  
7003 3110 0004 2966 1373

Gary and Naomi Baker  
P.O. Box 478  
Seaview, WA 98644

CERTIFIED MAIL  
7003 3110 0004 2966 1380

City of Long Beach  
Attn: Mr. Robert Strobe  
P.O. Box 310  
Long Beach, WA 98631

RE: Coastal Zone Management Federal Consistency Determination for Corps Public Notice No. **200500431** to construct a condominium complex and extend 4<sup>th</sup> Street North within the City of Long Beach, Pacific County, Washington.

Dear Mr. and Mrs. Baker and Mr. Strobe:

The purpose of this letter is to notify you that prior to obtaining a 404 Permit from the U.S. Army Corps of Engineers (Corps) for the above referenced project; a Coastal Zone Management Federal Consistency Determination is needed from the Washington State Department of Ecology (Ecology). A Coastal Zone Consistency Determination from Ecology is a prerequisite to the Corps making a decision on a 404 Permit application.

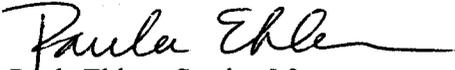
In order to make that determination, Ecology needs to receive verification that all of the states' enforceable policies have been met. This may be accomplished by filling out and submitting the attached Consistency Statement form. Please submit the completed statement to:

Department of Ecology  
Southwest Regional Office  
ATTN: Federal Permit Coordinator  
P.O. Box 47775  
Olympia, WA 98504-7775



If you have any questions, please contact Lori Ochoa at (360) 407-6926.

Sincerely,



Paula Ehlers, Section Manager  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

PE:LO:th  
Enclosure

cc: Ron Wilcox - U.S. Army Corps of Engineers  
Francis Naglich - Ecological Land Services

e-cc: Penny Keys – HQ  
Loree' Randall – HQ  
Kim VanZwalenburg - SWRO  
Deb Cornett – SWRO  
Perry Lund – SWRO  
Lori Ochoa - SWRO

e-cc: Penny Keys – HQ  
Loree' Randall – HQ  
Kim VanZwalenburg - SWRO  
Deb Cornett – SWRO  
Perry Lund – SWRO  
Lori Ochoa - SWRO