



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

October 31, 2006

REGISTERED MAIL
RB 252 974 127 US

Port of Port Townsend
Attn: Jim Pivarnik
PO Box 1180
Port Townsend, WA 98368

RE: Water Quality Certification Order 3872 and Coastal Zone Management consistency determination for Corps Public Notice No. 200500715 to construct a hangar and after-the-fact (ATF) mitigation in the Port Townsend, Jefferson County, Washington

Dear Mr. Pivarnik:

On July 13, 2006, Port of Port Townsend 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 hangar and ATF mitigation. The project proposes to address both the after-the-fact proposal to compensate for unauthorized wetland impacts that occurred during museum construction and the unavoidable impacts for the proposed hangar development. U.S. Army Corps of Engineers issued a public notice on August 7, 2006, 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.

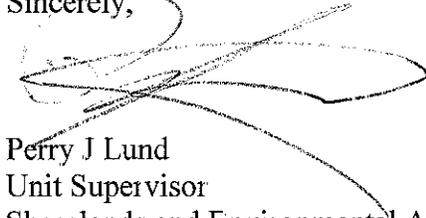
On October 5, 2006, Port of Port Townsend submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the Federal Water Pollution Control Act.



This letter also serves as the State response to the Corps of Engineers' August 7, 2006 Public Notice.

If you have any questions, please contact Randi Redick at (360) 407-7391. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a circular scribble.

Perry J Lund
Unit Supervisor
Shorelands and Environmental Assistance Program
Southwest Regional Office

PJL:RR:dn
Enclosure

cc: Joseph Brock, U.S. Army Corps of Engineers

e-cc: Penny Keys – HQ
Loree' Randall – HQ
Jeff Stewart-SWRO
Deborah Cornett-SWRO

IN THE MATTER OF GRANTING A) ORDER # 3872
WATER QUALITY) Corps Reference No. 200500715
CERTIFICATION TO) Construct a hangar and do after-the-fact (ATF)
Port of Port Townsend) mitigation, unnamed wetlands located in
in accordance with 33 U.S.C. 1341) Jefferson County, Washington
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)
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))

TO: Port of Port Townsend
Attn: Jim Pivarnik
PO Box 1180
Port Townsend, Washington 98368

On July 13, 2006, the Port of Port Townsend 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 August 7, 2006.

The proposed project entails constructing an airplane hangar and doing after-the-fact mitigation to compensate for unauthorized wetland impacts that occurred during museum construction at 103 Airport Cut-off Road, Port Townsend, Jefferson County, Washington 98368. Section 33, Township 30N, Range 1W, WRIA# 17, Quilcene-Snow Jefferson County

The project proposes to address both the after-the-fact proposal and unavoidable impacts to Category IV wetlands for the proposed hangar development. A gravity-run water system is proposed to re-deliver water into Wetland A, resulting in minimal temporary and permanent impacts to Wetland A. Proposed total permanent impacts amount to 6785 square feet (0.16 acre). Proposed temporary impacts amount to 2488 square feet (0.06 acre) and affects palustrine emergent habitat. In addition, there are indirect impacts from piping groundwater, collected at the northwest corner of Wetland A, and bypassing Wetland A.

Proposed mitigation to compensate for permanent impacts includes wetland creation (at a mitigation ration of 1:1) and enhancement (at a ratio of 2:1). Wetland restoration (at a ratio of at least 1:1) to compensate for temporary impacts, and a new water dispersal system will be placed to restore hydrology into Wetland A.

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 Port of Port Townsend, 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, PO Box 47775 Olympia, WA 98504-7775. Any submittals shall reference Order No. 3872 and Corps No. 200500715.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 13, 2006. The Applicant will be out of compliance

B. Water Quality

1. 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.
2. 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. Stormwater

1. The Applicant shall comply with the most current Construction Stormwater NPDES permit issued for this project.

D. Construction Conditions

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work and shall be maintained throughout construction.
2. The project shall be clearly marked/staked prior to construction. 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. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.

E. Wetland Mitigation and Monitoring:

1. Impacts to wetlands shall be mitigated as described in the Wetland Mitigation Plan for Proposed Hangar Project and ATF Mitigation Jefferson County International Airport, dated June 16, 2006
2. Monitoring will be conducted annually for a 5-year period following installation of the mitigation plan and will include the following elements:
 - Wetland hydrology: Wetland A will be monitored each year in the vicinity of the wetland impacts. These areas will be required to have saturation to the soil surface or inundation for at least 12.5% of the growing season measured consecutively.
 - Native vegetation areal cover and survival.
 - Invasive species will be monitored. Invasive species will be controlled so that invasive species will have no more than 10 percent coverage by the end of monitoring Year 5.

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 an Individual 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.

- Monitoring reports will be prepared each monitoring year and submitted to the The Department of Ecology's Federal Permit Coordinator by the end of each year of monitoring.

F. Reporting Requirements

1. A detailed "as built" report shall be prepared after mitigation construction showing any variances from the final wetland mitigation plan. The "as-built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
 - comments from a wetland specialist present on site during mitigation construction;
 - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
 - photographs of the area taken from permanent photo points which will be designated on the site plan;
 - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
 - an analysis of any changes to the mitigation plan that occurred during construction.
- A copy of the "as-built" report and drawings shall be sent to Ecology's Southwest Regional Office Attn: Federal Permit Coordinator at P.O. Box 47775, Olympia, WA 98504-7775, within 60 days of completing construction and planting, and in no case later than December 31, 2007.

G. Timing Requirements

1. This Order is valid until all compliance requirements in this document have been met.

H. Notification Requirements

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 three (3) days prior to the start of construction at the project and mitigation site.
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.

I. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or 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 and the Washington State Department of Fish and Wildlife of the nature of the problem, 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 Regional Spill Response Office at 360 407-6300.

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 31 OCTOBER 2006 at Lacey, Washington.



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

