



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 5, 2007

REGISTERED MAIL
RB 252 944 774 US

Puget Sound Energy
ATTN: Andy Markos
31030 South 38th Street
Tacoma, WA 98409

RE: Water Quality Certification Order No. **3991** and Coastal Zone Management consistency determination for Corps Public Notice No. NWS-2006-1209-SO to construct a backflow prevention structure within Printz Basin of Lake Tapps, Pierce County, Washington

Dear Mr. Markos:

On October 9, 2006, Puget Sound Energy 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 Printz Basin Backflow Prevention Structure. The proposed project involves the construction of a mass concrete dam/spillway across the existing diversion canal between Printz Basin and Lake Tapps in Pierce County. The proposed structure will prevent the flow of water from Lake Tapps back into Printz Basin in the event of dike failure in Printz Basin. The U.S. Army Corps of Engineers issued a public notice on November 17, 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.

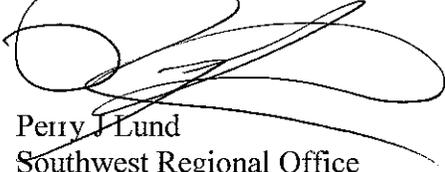
On December 28, 2006, Puget Sound Energy submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that the proposed 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' November 17, 2006 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,

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

Perry J. Lund
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:LO:dn
Enclosure

cc: Olivia Romano, U.S. Army Corps of Engineers
Doug Johnson, Ecology, Dam Safety Office
Travis Nelson, WDFW
Terry Belieu, Pierce County

e-cc: Lori Ochoa – SWRO, SEA
Penny Keys – HQ
Loree' Randall – HQ
Kim VanZwalenburg – SWRO, SEA
Deborah Cornett - SWRO, WQ
Jeff Marti – SWRO, WR

IN THE MATTER OF GRANTING A) ORDER # 3991
WATER QUALITY) Corps Reference No. NWS-2006-1209-SO
CERTIFICATION TO) Construction of a backflow prevention structure,
Puget Sound Energy) within the existing diversion canal between
in accordance with 33 U.S.C. 1341) Printz Basin and Lake Tapps, Pierce County,
(FWPCA § 401), RCW 90.48.120, RCW) Washington.
90.48.260 and Chapter 173-201A WAC)
))
))

TO: Puget Sound Energy
ATTN: Andy Markos
3130 South 38th Street
Tacoma, Washington 98409

On October 9, 2006, Puget Sound Energy 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 November 17, 2006.

Two 1500-ft long earth-filled dikes enclose the Printz Basin, with canals at the entrance and exit. The dikes have been identified by Ecology's Dam Safety Office (DSO) as potentially subject to settlement/movement in the event of an earthquake and has formally requested that Puget Sound Energy address this issue. Puget Sound Energy is proposing to construct a mass concrete dam/spillway across the existing diversion canal between Printz Basin and Lake Tapps. The proposed structure will allow water to flow through into the canal and Lake Tapps during normal operation. Vertical, hinged tidegates will be installed on the Lake Tapps side of the structure to prevent backflow from Lake Tapps in the event of dike failure in Printz Basin.

The work will consist of excavation of 4,076 cubic yards of material from below the ordinary high water mark (OHWM) of the canal, the placement of 2,785 cubic yards of concrete and riprap. The project is located within the diversion canal between Printz Basin and Lake Tapps at approximately 6711 218th Avenue East, Bonney Lake, Pierce County, Section 26, Township 20 North, Range 5 East, WRIA No. 10, Puyallup-White 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 Puget Sound Energy 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, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 3991 and Corps No. NWS-2006-1209-SO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on October 9, 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 U.S. Army Corps of Engineers 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. Certification of this proposal does not authorize the Applicants 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-200 shall apply to this project, unless otherwise authorized by Ecology.
2. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i). 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.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

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 three (3) days prior to the start of construction at the project 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, Order No. 3991, Corps Reference No. NWS-2006-1209-SO, project location, contact and contact's phone number.

E. 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 established in WAC 173-201A-200(1)(e)(i). If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or the 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 (360) 407-6926 of the exceedances.

2. If the results of the monitoring show 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.

F. Construction Activity 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. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
3. Erosion control devices suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.
4. During construction, the Applicant shall comply with all stormwater requirements within the current NPDES Construction Stormwater General Permit issued for this project.
5. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment including concrete delivery trucks or other equipment used for concrete work shall not be discharged into state waters or storm drains.
6. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed.
7. Appropriate Best Management Practices (BMP's) shall be implemented to minimize track-out during construction.
8. 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 new pilings and footings are to be placed may be relocated.

9. All debris or deleterious material resulting from construction shall be properly contained and disposed of so that it cannot enter waters of the state.
10. 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.
11. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Clean dewatering water that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
12. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants.
13. Fresh, uncured concrete in direct contact with water is toxic to aquatic life. All concrete shall be poured in the dry, or within confined waters not being dewatered, and shall be completely cured prior to coming into contact with waters of the state.
14. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter surface waters.
15. 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 ramps or floats once they have been placed within or over the ordinary high water mark.
16. The Applicant shall have a boat available and on site during in-water activities to retrieve any debris entering the water.

G. Project Restoration:

1. Restoration of the project area shall be achieved through measures described in the following documents:
 - Joint Aquatic Resources Permit Application Form received on October 9, 2006.
 - Wetland Delineation Printz Basin Backflow Prevention Structure, Bonney Lake, Washington dated September 29, 2006.
 - Non-Compensatory Mitigation Plan, Printz Basin Backflow Prevention Structure, Bonney Lake, Washington dated December 4, 2006.

H. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of 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.
 - f. Submit a detailed written report to Ecology's Federal Permit Coordinator within five (5) days that describes the nature of the event, 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 Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

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.

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.

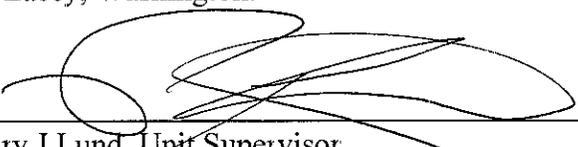
In addition, please send a copy of your appeal to:

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 5 JANUARY 2007 at Lacey, Washington.



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

Attachment # A

Puget Sound Energy
Printz Basin Backflow Prevention Structure
Water Quality Certification Order # 3991

Statement of Understanding
Water Quality Certification Conditions

I, _____, state that, I will be involved as an agent or contractor for Puget Sound Energy in the construction of the Printz Basin Backflow Prevention Structure within the diversion canal between Printz Basin and Lake Tapps at approximately 6711 218th Avenue East, Bonney Lake, Pierce County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #3991 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

