



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 19, 2007

REGISTERED MAIL
RB 252 946 599 US

Mr. Steve Misiurak
City of Gig Harbor
3510 Grandview St.
Gig Harbor WA 98335

RE: Water Quality Certification - Order #5228/Corps Public Notice # NWS-2007-785-NO Contaminated sediment cleanup at the Gig Harbor former Eddon Boatyard property including dredging of approximately 2,000 cubic yards (CY), pier, piling, and marine rail removal, backfill of clean sand and rebuilding of the pier and marine rails and reinstallation of the existing gangway and floating dock in Gig Harbor, Pierce County, Washington.

Dear Mr. Misiurak:

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 certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

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.



Order #5228, Corps No. NWS-2007-785-NO

November 14, 2007

Page 2 of 2

If you have any questions concerning the content of this letter, please contact Helen Pressley at (360) 407-6076.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brenden McFarland', with a long horizontal flourish extending to the right.

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

cc: David Templeton, Heather Page, Anchor Environmental LLC,
Jim Green, Corps
Penny Keys, Ecology

IN THE MATTER OF GRANTING A) ORDER #5228
WATER QUALITY) Corps Reference No. NWS-2007-785-NO
CERTIFICATION TO) Contaminated sediment cleanup at the Gig
the City of Gig Harbor) Harbor former Eddon Boatyard property
in accordance with 33 U.S.C. 1341) including dredging of approximately 2,000 cubic
(FWPCA § 401), RCW 90.48.120, RCW) yards (CY), pier, piling, and marine rail removal,
90.48.260 and Chapter 173-201A WAC) backfill of clean sand and rebuilding of the pier
) and marine rails and reinstallation of the existing
) gangway and floating dock in Gig Harbor, Pierce
) County, Washington

TO: Mr. Steve Misiurak
City of Gig Harbor
3510 Grandview St.
Gig Harbor WA 98335

On June 1, 2007 the City of Gig Harbor submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on July 24, 2007.

The proposed project is a voluntary cleanup of sediment from the previous Eddon Boatyard property, a former boat repair facility, to support future waterfront park development and public use. A number of construction activities will be required in order to facilitate the cleanup. The following sequence of activities will occur:

1. Remove existing gangway and float (to be reinstalled after cleanup).
2. Demolish existing marine railways and pier (including the removal of 87 creosote treated piling).
3. Dredge contaminated sediment (approximately 2,000 CY of silty sandy sediment) to a depth of 2 to 3 feet below the existing surface in specified areas, a total of 0.5 acres in area.
4. Perform sampling in the dredged areas that will not receive backfill to ensure cleanup levels are achieved.
5. Place an engineered cap consisting of a 1-foot thickness of sand covered by 6 inches of habitat material (2,500 CY) in specified areas.
6. Remove creosote-treated bulkhead (1,600 square feet including 26 creosote-treated piles) and re-grade slope.
7. Rebuild marine railway and pier (including reinstallation of the existing gangway and float).

The proposed dredging and placement of cap material will be performed using a combination of land-based and water-based equipment.

Note: The environmental cleanup of the site is being conducted in cooperation with the Washington State Department of Ecology through the Voluntary Cleanup Program pursuant to the state Model Toxics Control Act (MCTA) and Sediment Management Standards.

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 the City of Gig Harbor and its agents, assignees and contractors.
2. For purposes of this Order, all submittals or notifications required by its conditions shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504, via e-mail at hpre461@ecy.wa.gov, or (360) 407-6076. Any submittals shall reference Order No. 5228 and Corps No. NWS-2007-785-NO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 1, 2007. 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 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 at 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, downstream 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 stating 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.
12. This Order shall be rescinded if the US Army Corps of Engineers does not issue an individual Section 404 and Section 10 permit.

B. Water Quality:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i)(D). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup or surface waters or sediments occurring as a result of project operations.
2. Thirty (30) days prior to beginning any work at this site, a sampling and monitoring plan shall be submitted to Ecology at the above address. The plan must be reviewed and approved by Ecology

prior to the beginning of work at the site. This plan will include z sampling of the newly dredged surface, confirmatory sampling, and turbidity monitoring.

3. Turbidity shall be assessed and recorded at a minimum of every four (4) hours during periods of active in-water work during the day. Monitoring points shall be 100 feet upcurrent (representative background), 150 feet downcurrent at the point of compliance.

If turbidity exceeds 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or there is a more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU, then modify the activity causing the problem and continue to monitor every four (4) hours.

If exceedances occur during two (2) consecutive measurements (four (4) hours apart), stop the activity causing the turbidity, notify Ecology, and do not continue work until the problem is resolved.

4. During and immediately after project completion, the Applicant or contractor shall visually monitor the area for distressed or dying fish. If distressed or dying fish are observed, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology at Ecology's Southwest Regional Spill Response Office at (360) 407-6300, a 24-hour number.
5. Dewatering water shall not be discharged into waters of the state unless it is adequately treated. The Applicant shall include a dewatering plan in the Spill Prevention and Containment Plan referred to in Section I, Condition #1 of this document.
6. Reports of any exceedances should be forwarded to the Federal Permit Coordinator. Refer to Corps #NWS-2007-785-NO, Order #5228. Please either call (360) 407-6076 or, fax to (360) 407-6902, e-mail at hpre461@ecy.wa.gov or in writing.

C. Dredging and Disposal:

1. All dredging is to be done using either a clamshell or land-based equipment. Use of any other type of dredge will require prior approval from Ecology.
2. All material removed will be transported to an approved upland disposal site.
3. 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.
4. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
5. In-water and upland staging area erosion control BMPs (*e.g.*, filter fences, silt curtains, bubble curtains etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting work material removal at the site.

6. Work shall be accomplished per the Joint Aquatic Resource Application, dated June 1, 2007, and the “*Biological Evaluation Eddon Boatyard Sediment Cleanup Project*” dated May, 2007, HPA #109279-2 dated October 10, 2007, and any addendums except as modified by this Order.
7. Any construction or staging debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
8. Wash water containing oils, grease, or other hazardous materials 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.
9. During construction, reconstruction, and dredging, a containment boom (silt curtain) shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as a result of construction and dredging activities. Oil absorbent materials shall be deployed if any floating oil sheen is observed. The boom shall remain in place until all oily material and/or floating debris has been collected and sheens dissipate. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
10. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
11. All manmade debris on the beach within the construction/dredging work area shall be removed and disposed of upland such that it does not enter waters of the state.
12. Barges or other work vessels shall be restricted to tidal elevations adequate to prevent grounding of the barge or vessel.

D. Engineered Cap:

1. The engineered sand cap for this project shall be composed of clean washed sand and topped with clean washed habitat mix in order to minimize the amount of sediment suspended during the capping process.
2. The silt curtain shall remain deployed until all visible turbidity has settled.
3. Stabilize all backfilled areas worked “in the dry” and work in stages as practicable so that sediment is not resuspended during high tide.

E. Piling Removal and Installation of New Piling:

1. All piling shall be removed using vibratory extraction or a crane barge system. In the event that pilings break off during extraction, the remaining piling may be removed by using a chain or a compressed air or hydraulically-operated saw. A silt curtain shall be used to keep sediment from entering waters of the state.
2. The work surface on the barge deck or upland shall include a containment basin for piles and any debris removed during pulling of the piling. Basins may be constructed of durable plastic sheeting

with sidewalls supported by hay bales or support structure to contain all sediment. Accumulated wastewater from any storage area shall be treated prior to discharge.

3. All piling shall be disposed of at an approved upland disposal site. If the pilings cannot be removed completely, they shall be cut off at a minimum of two (2) feet below grade.
4. The piling should be removed immediately from the water onto the barge or uplands. 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.
5. All abandoned piling holes shall be filled and capped with substrate consistent with the existing natural surrounding substrate, sand, and/or clean 1-inch minus well-rounded gravel.
6. All new pilings shall be steel.
7. The new pilings shall be installed using a vibratory or impact hammer.
8. The Applicant shall employ a bubble curtain during installation of piles greater than 10 inches in diameter 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. A block of wood at least six (6) inches thick shall be placed between the pile driver and the pile to minimize in-water noise.

F. Testing Sediment:

1. The newly exposed surfaces of dredged areas and newly created intertidal areas that are not slated to be capped with clean sand shall be sampled to ensure compliance with the Sediment Management Standards (Chapter 173-204 WAC).
2. Additionally, confirmatory sampling at the waterward edge of Contaminated Sediment Removal Area A shall be conducted to ensure the dredged area includes the extent of contamination.
3. Should testing indicate that any of this sediment is contaminated, either this material will be removed and disposed of upland in an approved location or it will be left in place and capped. A sampling plan shall also be submitted to the address indicated in Condition A2 above prior to conducting sampling. The sampling results shall be submitted prior to the completion of the project.
4. If further contamination is found, notify Ecology at the above phone number or via e-mail within 48 hours.

G. Timing Requirements:

1. 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 five (5) years from date of issuance. Continuing this project beyond the five year term of this Order will require separate certifications every five years.

H. Notification Requirements:

1. **The department shall be notified at least 72 hours prior to the start of dredging as per condition A2.**
2. The Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction or dredging at the project site. Notification, referencing Corps Reference #NWS-2007-785-NO, Order #5228 can take place per Condition A2.3. This Order is valid until all compliance requirements in this document have been met.

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 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (360) 407-6076.
 - f. Submit a detailed written report to Ecology 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.

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 using the above phone numbers.

J. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Department of Ecology
Headquarters
Attn: Helen Pressley
PO Box 47600
Olympia, WA 98504-7600

Order #5228, Corps No. NWS-2007-785-NO

November 19, 2007

Page 9 of 9

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

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 Nov 19, 2007 at Lacey, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

ATTACHMENT A

**City of Gig Harbor
Eddon Boatyard to Park Conversion
Water Quality Certification Order #5228**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #5228 Section 401 Water Quality Certification for the Eddon Boatyard to Park Conversion.

Signature

Date

Title

Company