



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

REGISTERED MAIL

RB 252 946 948 US

January 7, 2009

Ms. Rebecca Chaffee
Port of Willapa Harbor
1725 Ocean Ave
Raymond WA 98577

RE: Water Quality Certification - Order #6297/Corps Public Notice NWS-2008-00164-SO
Maintenance dredging in the amount of up to 230,000 cubic yards (cy) of sediment in four
dredging events over ten years at the Toke Point Federal Entrance Channel and within the
Tokeland Marina basin at Tokeland, Pacific County, Washington

Dear Ms. Chaffee:

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.

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

Sincerely,

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

cc: Seattle Corps – Jim Green
Coast and Harbor Engineering – Vladimir Shepsis,
e-cc: Ecology HQ – Jessica Moore
Ecology HQ – Loree' Randall
Ecology HQ - George Kaminsky
Ecology SWRO – Lori Ochoa
Ecology SWRO – Rick Mraz



IN THE MATTER OF GRANTING A) ORDER #6297
WATER QUALITY) Corps Reference No. NWS-2008-164-SO
CERTIFICATION TO) Maintenance dredging in the amount of 230,000
the Port of Willapa Harbor) cubic yards (cy) of sediment over four dredge
in accordance with 33 U.S.C. 1341) events in and around the Federal Entrance
(FWPCA § 401), RCW 90.48.120, RCW) Channel and Tokeland Marina at Tokeland,
90.48.260 and Chapter 173-201A WAC) Pacific County, Washington

TO: Ms. Rebecca Chaffee
Port of Willapa Harbor
1725 Ocean Ave
Raymond WA 98577

On January 30, 2008 the Port of Willapa 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 August 12, 2008.

The proposed project involves maintenance dredging of the Federal navigation channel to a depth of -17 feet (ft) mean lower low water (MLLW) with a 2 ft overdredge allowance and within the Tokeland Marina to a depth of -11 ft to -17 ft MLLW with a 2 ft overdredge allowance. Four separate dredging events are planned over a period of 10 years. The first dredge event will total up to 65,000 cy, and the remaining 3 will each total up to 55,000 cy.

Dredging will be done with a hydraulic suction dredge and pipeline discharge. Finer grained sediment will be disposed of in the flow lane, and coarser sediments will be used for beach nourishment adjacent to the marina.

The purpose of this dredging is to provide safe vessel access to the marina and through the Federal Channel into Willapa Bay.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 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.

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 Port of Willapa Harbor and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504. Any submittals shall reference Order No. 6297 and Corps No. NWS-2008-164-SO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 30, 2008. 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-200, except as otherwise authorized by this Order.

C. Turbidity Mixing Zone:

1. In granting the following mixing zone for turbidity, Ecology finds that the supporting information clearly indicates the granting of a mixing zone would not have a reasonable potential to: 1) cause a loss of sensitive or important habitat; 2) substantially interfere with the existing or characteristic uses of Willapa Harbor or the Pacific Ocean; 3) result in damage to the ecosystem; or, 4) adversely affect public health.
 - a. Consistent with WAC 173-201A-400, this Order authorizes a mixing zone for turbidity as follows:
 - i. The distance granted for the temporary turbidity mixing zone is a 1,000 foot radius from the point of discharge during the placement of coarse sediment to nourish the beach adjacent to the marina and for the flowlane disposal.

- ii. Visible turbidity anywhere at the 1,000 ft point of compliance from the dredge activity and/or the disposal location shall be considered to be an exceedance of the standard.
2. Turbidity shall be monitored and recorded as specified within the technical memorandum "Water Quality Mixing Zone Request Requirements Tokeland Marina & Federal Entrance Channel", unless otherwise authorized by Ecology.

D. Dredging and Disposal:

1. All dredging will be done using a hydraulic suction dredge. Use of any other type of machinery will require prior approval from Ecology.
2. All material dredged will be transported to the approved flowlane or beach nourishment disposal sites. No other disposal areas shall be used unless first reviewed and approved by Ecology.
3. All debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. All similar-sized debris found floating in the dredging or disposal area shall also be removed and disposed of upland.
4. 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.
5. The project must be dredged before the most current sediment evaluation's recency or frequency date. The Dredged Material Management Program (DMMP) sediment evaluation covers the project until August, 2013. After that date, the applicant must either request an extension for the sediment evaluation or conduct another sediment evaluation through the DMMP.
6. The hydraulic dredge intake shall be kept at or below the sediment surface when being used. Purging or flushing of the intake system shall be kept to a minimum. The intake shall be raised a maximum of 3 ft above the bed for purging or flushing.
7. Disposal of dredged sediment into the water column shall be accomplished using a diffuser.
8. Impacts to riparian vegetation at the beach nourishment site shall be avoided or minimized where possible.
9. A detailed **Dredging Plan** shall be developed and implemented. The Applicant shall submit the Plan for Ecology's review per Condition #A2 at least 14 days prior to the start of dredging.

E. Timing Requirements:

1. All in-water work shall be completed by the work windows identified in the most current HPA for this project. Information on 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 10 years from date of issuance. Continuing this project beyond the 10 year term of this Order will require separate certifications every 10 years.

F. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least 7 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-2008-164-SO, Order #6297 can take place by telephone to (360) 407-6076 or, fax to (360) 407-6902, e-mail at hpre461@ecy.wa.gov or in writing.

G. Crab Mitigation Measures:

1. Dungeness crab mitigation shall be completed as specified in the letter dated October 8, 2008 from Bill Rehe of the Washington Department of Fish and Wildlife. Ecology shall be notified if any changes are requested to this mitigation agreement.

H. 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. 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.
 4. 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.

I. 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

*Port of Willapa Harbor, Tokeland Marina
Order #6297, Corps No. NWS-2008-164-SO
January 7, 2009
Page 7 of 8*

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

Deliver your appeal in person to:
The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

OR

3. And send a copy of your appeal to:
SEA Program Headquarters
Attn: Helen Pressley
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

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 Jan 7, 2009 at Lacey, Washington



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

ATTACHMENT A

**Port of Willapa Harbor Tokeland Marina and
Federal Navigation Channel Entrance
Maintenance Dredging
Water Quality Certification Order #6297
Corps Project # NWS-2008-164-SO
Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #6297 Section 401 Water Quality Certification for the **Port of Willapa Harbor Maintenance Dredging Project**. I have also read and understand all permits, plans, documents, and approvals associated with the **Port of Willapa Harbor Maintenance Dredging Project** referenced in this order.

Signature

Date

Title

Company