



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

REGISTERED MAIL

January 14, 2005

Anchor Cove Marina Condominium Association  
1600 – 5<sup>th</sup> St  
Anacortes, WA 98221

RE: Water Quality Certification - Corps Public Notice 200400104 / Docket #1421  
Maintenance dredging of Anchor Cove's existing moorage basin. The proposed dredging will consist of a second cycle of maintenance dredging. A total of approximately 40,000 cubic yards of material will be excavated over a 10-year period.

Dear Mr. Pease:

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 letter also serves as the State response to the Corps of Engineers.

In exercising authority under 33 D.S.C. 1341, RCW 90.48.260 and RCW 90.48.120, Ecology has investigated this application pursuant to the following:

Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307),

Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law, and 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.

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW,

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90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the Port of Seattle (Port) subject to the following conditions:

Sincerely,

*Kerry Carroll for Brenden McFarland*

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

cc: Seattle Corps – Randall Perry  
Agent – Mr Jeffrey Layton, Layton and Sell, 12515 Willows Rd, Suite 205,  
Kirkland WA 98034-8795  
Penny Keys, Ecology  
Tom Gries, Ecology  
Brad Helland, Ecology



e) If dredging or disposal operations are found not to be in compliance with the provisions of this order or the Dredging Plan, or result in conditions causing distressed or dying fish, the operator shall immediately take the following actions:

- 1) Cease operations.
- 2) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
- 3) In the event of finding distressed or dying fish, the operator shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. The department may require such sampling and analyses before allowing the work to resume.
- 4) Notify Ecology (water quality violation) and/or WDFW (fish kill) of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

## **2. Short-term Modification to the Water Quality Standards**

a) Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC), including the state sediment quality standards (173-204 WAC). 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.

## **3. Spill Prevention and Control.**

a) During construction, any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited.

b) Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., on construction equipment shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall be maintained to prevent vandalism.

c) 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.

d) Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to the department's Northwest Regional Office at (354) 649-7000 (a 24-hour phone number).

e) Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices

suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling, and grading work at the impact sites.

**4. Notification.**

a) The department shall be notified at least 72 hours prior to the start of construction. Contact Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or [hpre461@ecy.wa.gov](mailto:hpre461@ecy.wa.gov).

b) The Applicant shall submit an updated application to Ecology if the information contained in the project is altered by submittals to the federal agency and/or state agencies. Within 30 days of receipt of an updated application Ecology will determine if a modification to this Order is required. All submittals shall be sent to the Federal Permit Coordinator at the above address.

**5. General Conditions.**

a) This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

b) The Applicants shall be considered out of compliance with this certification if:

1) The project is constructed and/or operated in a manner not consistent with the description contained in the Corps' Public Notice.

2) Five years elapse between the date of the issuance of this certification and the start of construction and/or discharge for which the federal license or permit was sought. However, the expiration date may be extended by the department at the request of the permittee.

3) The information contained in the Public Notice is voided by subsequent submittals to the federal agency. In which case, the permittee must reapply for certification with the updated information.

c) 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.

d) The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.

e) Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

f) Copies of this Order shall be kept on the job site and readily available for reference by Corps of Engineers personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

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Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars per violation for each day of continuing noncompliance.

Any person aggrieved by this Order (Order #1421) may obtain review thereof by appeal. Pursuant to Ch. 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia WA 98504-7600 and Department of Ecology, SEA Program, Attention Ms. Loree' Randall, PO Box 47600, Olympia WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

DATED January 14, 2005 at Lacey, Washington

*Kerry Carroll for Brenden McFarland*  
Brenden McFarland, Supervisor  
Environmental Coordination Section  
Department of Ecology  
State of Washington