



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

April 19, 2005

REGISTERED MAIL
RR 359 893 536 US

Derek Gustafson
Washington State Parks and Recreation Commission
220 North Walnut Street
Burlington WA 98233-1138

Dear Mr. Gustafson:

RE: **Order # 2187**
U.S. Army Corps of Engineers # 200300924-R
Water Quality Certification and Coastal Zone Management Consistency Determination for replacement of boat ramps, floats and debris deflector, Deception Pass State Park, Cornet Bay, Island County, Washington.

The request for certification for proposed work in Cornet Bay has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply 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.

Pursuant to 16 U.S.C. 1456 et. seq. (Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended), Ecology concurs with the applicant's determination that this work will be consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Alice Kelly at (425) 649-7145. Written comments can be sent to her at the Department of Ecology, 3190 – 160th Ave. SE, Bellevue, WA 98008. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Jeannie Summerhays
Section Manager
Shorelands and Environmental Assistance Program

JS:ak:rc
Enclosure

cc: Rozwin Liera, Corps

Penny Keys, Ecology

**IN THE MATTER OF GRANTING A
WATER QUALITY CERTIFICATION TO
Washington State Parks and Recreation
Commission**

in accordance with 33 U.S.C. 1341 FWPCA
§ 401, RCW 90.48.120, RCW 90.48.260 and
Chapter 173-201A WAC

) **ORDER # 2187**
) **Corps Reference No. 200300924-R**
) Replace and expand boat launch; replace two
) existing finger floats with three new finger
) floats; remove 7 creosote treated piles with 7
) new steel piling; replace wood log boom;
) Deception Pass State Park, Cornet Bay, Island
County, Washington.

TO: Derek Gustafson
Washington State Parks and Recreation Commission
220 North Walnut Street
Burlington WA 98233

On March 7, 2005, a revised public notice for a proposed water quality certification from the State of Washington was distributed by the US Army Corps of Engineers for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The proposed project entails expanding and renovating the boat launch at Deception Pass State Park located at Cornet Bay. The existing 3-lane boat launch will be removed and replaced with a 4-lane boat launch. The new boat launch will be constructed in both cast-in-place and pre-cast concrete. The floats will be replaced and reconfigured, and the existing debris deflector and piling will be replaced.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, and RCW 90.48.260, Ecology has investigated 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. 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
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.

CONDITIONS OF ORDER # 2187 AND WATER QUALITY CERTIFICATION:

For purposes of this Order, the term "Applicant" shall mean Washington State Parks and Recreation Commission and its agents and contractors.

In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

A. No Impairment of Water Quality:

A1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards 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.

B. Construction:

- B1. Construction Stormwater and Erosion Control: 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 (e.g., detention and infiltration areas, filter fences, etc.), shall be in place before starting demolition and construction at the impact site.
- B2. A silt curtain shall be installed during construction of the boat ramp and during any other activities that may cause excessive turbidity.
- B3. During construction of the cast-in-place concrete boat ramps, the de-watering water from inside the cofferdam shall be tested for pH before discharge through filter fabric and hay bales onto the beach. Water quality standards for pH in the marine environment for Class AA waters require pH of 7.0 to 8.5 with an allowable human-caused variation of 0.2 units.
- B4. Wet concrete shall be prevented from entering waters of the state. Forms for any concrete structure shall be constructed to prevent leaching of wet concrete. Impervious materials shall be placed over any exposed concrete not lined with the forms that will come in contact with state water. Forms and impervious materials shall remain in place until the concrete is cured.
- B5. The applicant and its contractor(s) shall take all necessary measures to minimize the footprint of disturbance.

- B6. All construction debris, including concrete and quarry spalls, shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- B7. 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.
- B8. The Applicant shall provide notice to Ecology's Alice Kelly at least 3 days prior to the start of construction. Notification can take place by e-mail to akel461@ecy.wa.gov, telephone to (425) 649-7145, fax to (425) 649-7098, or in writing.
- B9. Clean Fill Criteria: The Applicant shall ensure that fill (quarry spalls) placed for the proposed project does not contain toxic materials in toxic amounts.

C. Emergency/Contingency Measures:

- C1. In the event the Applicant is unable to comply with any of the permit terms and conditions due to any cause, the applicant shall:
- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
 - Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Alice Kelly at (425) 649-7145.
 - Submit a detailed written report to Ecology within five days that describes the nature of the violation, 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.

- C2. 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. No refueling of equipment shall occur over, or within 50 feet of Puget Sound.

D. Other Permits and Approvals:

- Hydraulic Project Approval (HPA) Log No. ST-F6736-01, issued on November 8, 2004.

E. General Conditions:

- E1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- E2. The applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- E3. The applicant will be out of compliance with this certification and must reapply with an updated application if five years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.
- E4. This water quality certification shall remain in effect for a period of five years from the date of issuance. However, Ecology reserves the right to reassess the terms of this water quality certification and amend or revoke, as necessary, in the event that new sources of potential contamination are discovered or discharged, or new information indicates that the authorized activities are having a significant adverse impact on water quality or characteristic uses.
- E5. 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 foremen, and state and local government inspectors. To avoid violations or non-compliance with this Order, the applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order and any subsequent revision.
- E6. 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, or to ensure that conditions of this Order are being met.
- E7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines 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 the public interest.
- E8. Liability: 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) per violation for each day of continuing noncompliance.

Appeal Process:

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board, P.O. 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, P.O. 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 4/19/05 at Bellevue, Washington.



Jeannie Summerhays, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington