



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 777 or 800-833-6388 (for the speech or hearing impaired)

COPY

REGISTERED MAIL

July 29, 2005

Mr. Robert Phillips
Cape George Colony Club
61 Cape George Dr
Pt Townsend WA 98368

RE: Water Quality Certification - Order #2521 / Corps Public Notice 200400887

Dear Mr. Phillips:

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.

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.

This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order. If you have any questions concerning the content of the Order, please contact Helen Pressley at (360) 407-6076 or hpre461@ecy.wa.gov.

Sincerely,

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

cc: Jessica Winkler - Seattle Corps
Penny Keys - Ecology HQ

ENTERED



DEPARTMENT OF ECOLOGY

In the Matter of Granting a)	ORDER No. 2521
Water Quality Certification)	(Corps Project #200400887)
To: Cape George Colony Club)	Dredging and deepening the marina
In Accordance with 33 U.S.C. 1341)	entrance and berthing areas of the marina
[FWPCA § 401], RCW 90.48.120,)	at Cape George at the mouth of Discovery
CW 90.48.260, and WAC 173-201A)	Bay near Port Townsend, Jefferson County,
		Washington

ATTN: Mr. Robert Phillips
Cape George Colony Club
61 Cape George Dr
Port Townsend WA 98368

On April 12, 2005, a request for water quality certification was made to the State of Washington for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The request for certification was made available for public review and comment by inclusion in Corps Public Notice No. 200400887 dated June 15, 2005.

The Cape George Colony Club proposes to dredge and deepen the marina entrance and berthing areas of the marina. They propose to dredge up to 900 cubic yards (cy) of accumulated sand and cobble from the marina entrance channel on an annual basis. A land or beach operated track-mounted backhoe or front-end loader will be used to remove material to reach a bottom elevation of minus 3.5 feet Mean Lower Low Water (MLLW). The dredged material would be placed as beach nourishment between the Mean Higher High Water and four feet MLLW along the seawall to the south of the entrance channel. Structural dock components such as support beams, dock modules, toe rails, and decking will be replaced. The purpose of this work is to maintain structures and the access channel to allow continued marina operation.

Maintenance dredging is proposed yearly from the initial dredge event and lasting for 5 years.

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

1. 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.
2. 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, RCW 90.48. 120, RCW 90.48.260, and Chapter 173-201A WAC, certification is granted to the Cape George Colony Club (Applicant) with the following conditions:

1. No Further Impairment of Existing Water Quality:

- 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.

2. Dredging and Disposal.

- a) All dredging is to be done using either a land or beach operated track-mounted backhoe or a front-end loader. Use of any other type of dredge will require prior approval from the Dredged Material Management Program (DMMP) agencies.
- b) All debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed. All debris shall be disposed of at appropriate upland locations.
- c) A Dredging Plan is required and shall be submitted to Ecology's Federal Permit Coordinator, PO Box 47600, Olympia WA 98504-7600 at least 7 days prior to the pre-construction meeting. This plan will be reviewed and approved at the pre-construction meeting to be convened at the Seattle Corps of **Engineers** office prior to the start of dredging.
- d) 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.

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 Southwest Regional Office at (360) 407-6300 (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 dredging.** Contact Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.
- b) The Applicant shall submit an updated application to Ecology if the **information** contained in the project is altered by route modification or facility relocation 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. Duration of Certification.

This WQC shall remain in effect for a period of five (5) years from date of issuance. Continuing dredging beyond the five year term of this Order will require separate certifications every five years.

Ecology reserves the option to reassess the terms of this Order and amend or revoke, as necessary, in the event that:

- a) New sources of potential contamination are discharged or otherwise stand to significantly affect the quality of sediments dredged, or
- b) New information indicates that dredging **and/or** disposal activities are having a significant adverse impact on water quality or characteristic uses.

6. Erosion and Sediment Control

- a) During clearing or filling or staging at the project site, the Applicant shall take all necessary measures to minimize the alteration or disturbance of any existing wetland or upland vegetation.

7 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.

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 Order #2521 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 date of 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

Water Quality Certification #2521
July 29, 2005
Page 5

the Department of Ecology, Shorelands and Environmental Assistance Program, **Attn:** 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 July 29, 2005 at Lacey, Washington

Brenden **McFarland**, Section Supervisor
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington