



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

September 19, 2005

REGISTERED MAIL
RB 253 008 488 US

Port of Ilwaco
ATTN: Ms. Jamie Sowers
P.O. Box 307
Ilwaco, WA 98324

RE: Water Quality Certification and Coastal Zone Consistency Determination, Order 2745 for Corps Public Notice. 200500117 to replace approximately 25 pilings per year over a period of five years for a total of approximately 125 pilings at the Port of Ilwaco Mooring Basin, Baker Bay, Pacific County, Washington

Dear Ms. Sowers:

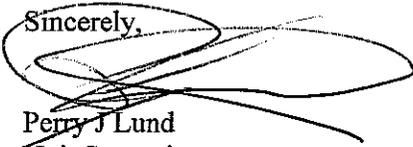
The public notice issued by the U.S. Army Corps of Engineers on March 22, 2005, for proposed work in Baker Bay of the Columbia River, City of Ilwaco, Pacific County has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps public notice complies with applicable provisions of Section 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 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 concurrence is subject to the conditions contained in the enclosed order.

If you have any questions please contact Lori Ochoa at 360-407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

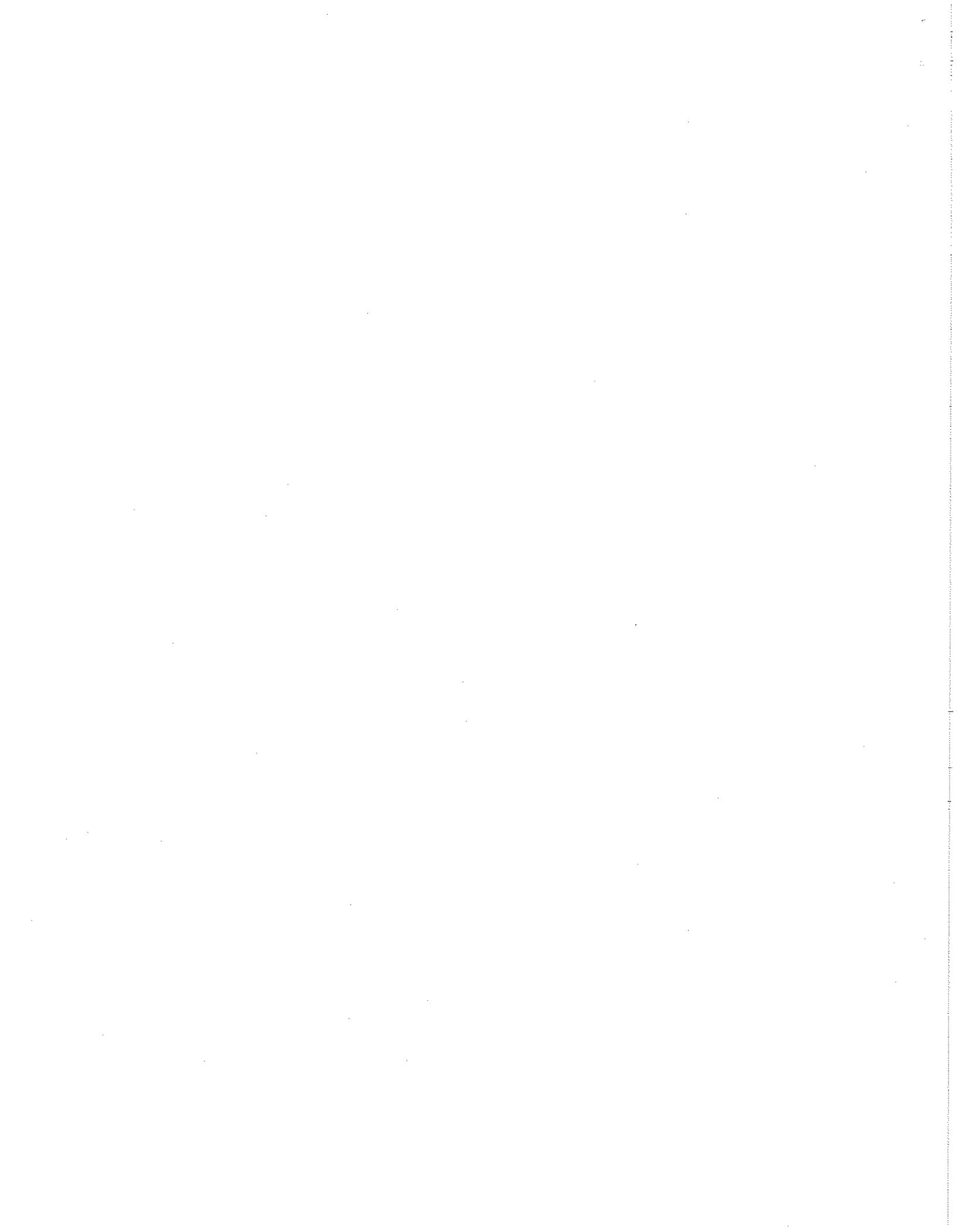


Perry J Lund
Unit Supervisor
Shorelands and Environmental Assistance Program
Southwest Regional Office

PL:LO:dn
Enclosure

cc: Karla Ellis, US Army Corps of Engineers, Portland District
Key McMurry, WDFW
Lisa Faubion, WA DNR





**IN THE MATTER OF GRANTING
A WATER QUALITY
CERTIFICATION TO
PORT OF ILWACO**)
in accordance with 33 U.S.C. 1341)
FWPCA § 401, RCW 90.48.120)
RCW 90.48.260 and WAC 173-201A)
)

**ORDER 2745
Corps No. 200500117
To replace approximately 25 creosote
wood pilings and/or fender piles per
year over a period of five years for a
total of approximately 125 piles at the
Mooring Basin in Baker Bay, Pacific
County, Washington.**

TO: Port of Ilwaco
ATTN: Ms. Jaimie Sowers
P.O. Box 307
Ilwaco, Washington 98324

ATTN: Ms. Sowers:

On March 22, 2005 a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project will involve the removal of creosote wood pilings and/or fender piles and replacement with steel pilings at a rate of approximately 25 piles per year over a duration of five years for a total of approximately 125 piles, within Baker Bay on the Columbia River at the Port of Ilwaco Mooring Basin at 165 Howerton Avenue, Ilwaco, Pacific County, Washington.

For purposes of this Order, the term "Applicant" shall mean the Port of Ilwaco and their agents, assigns, and contractors.

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 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, 302, 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.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the project as proposed and conditioned will meet water quality standards and other applicable requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the Port (Applicant) subject to the following conditions:

A. No Further Impairment of Existing Water Quality

- A1. This segment of the Columbia River (WRIA#24) is a Class A water of the state. Certification of this proposal does not authorize the Port to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(2) and WAC 173-201A-040 shall apply to this project. This order does not authorize temporary exceedences of water quality standards beyond the limits established in WAC 173-201A-110 (3). Furthermore, nothing in this certification shall absolve the Port from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- A2. This segment of the Columbia River has been identified on the current 303(d) list of impaired water bodies for exceeding water quality standards for Fecal Coliform, PCB-1254, and Total Dissolved Gas. This proposed project shall not result in further exceedences of those standards, and will be out of compliance with this certification if discharges from the project exceed limits for those contaminants identified in 173-201A-030(2) WAC and/or 173-201A-040 WAC.
- A3. Certification of this project does not authorize the applicant to exceed the special water quality standards for the Columbia River as specified in WAC 173-201A-130(20) (1997 version).

B. Timing:

- B1. This Order is valid for a duration of five years from the date of issuance.
- B2. In water work shall be subject to the timing limitations imposed by the Washington Department of Fish and wildlife's Hydraulic Project Approval Number: GH-G0940-01, issued to the Port of Ilwaco on June 15, 2004.

C. Notification Conditions:

- C1. The Port shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the start of work below the ordinary high water mark of the Columbia River.
- C2. The Port shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
- C3. The Port shall ensure that all appropriate supervisors, project engineers and contractors at the project site shall have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Port shall provide Ecology a signed statement (see Attachment #A for an example) from each supervisor, project engineer, and contractor 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 no less than seven (7) days before construction begins at the project site.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

D. Construction Conditions:

- D1. Work in or near waters of the state shall be done so that it minimizes 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 work at the impact sites.
- D2. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris or other bed material) shall be relocated or used as bulkhead armor, as fill, or for any other purpose **except** that bed material located exactly where the new pilings and footings are to be placed may be relocated.
- D3. All construction debris shall be properly disposed of upland so that it cannot enter a waterway or wetland or cause water quality degradation to state waters.
- D4. Machinery and equipment used during construction shall be serviced, fueled, and maintained in a manner to prevent contamination to surface waters.
- D5. Wash water containing oils, grease, or other hazardous material 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. Equipment that is not barge-mounted and will be in contact with waters of the State must be cleaned before coming on-site.
- D6. No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals, or other substances harmful or toxic to fish or shell fish shall be applied to the pier system once it has been placed within or over the OHWM of the Columbia River.

E. Water Quality Monitoring and Reporting Conditions:

- E1. During and immediately after each discrete in-water construction activity, the Port or their contractor shall visibly monitor the mixing zone for turbidity. If water quality exceedances are observed outside of the mixing zone, work causing the turbidity shall cease immediately and the Port or their contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Port or their contractor shall notify Ecology's Federal Permit Coordinator at the Southwest Regional Office at (360) 407-6926 of the exceedances.
- E2. The following in-water activities shall be visually monitored as described below:
 - E2a. Pile removal shall be monitored every 2 hours for turbidity for the duration of the activity. If there is a noticeable turbidity plume near the compliance point between sample periods, a water sample shall be taken at that time.
 - E2b. Pile driving shall be continuously visually monitored for turbidity for duration of activity. If a visual turbidity plume exists at the pile driving site, water samples shall be taken at least every 2 hours 300 feet downstream until the turbidity plume is no longer present.
 - E2c. All in water activities shall be continuously visually monitored for a visible sheen from oil or grease.
- E3. Monitoring results shall be documented on a form that includes the date, time, activity being monitored, parameters being monitored, location of monitoring points, person conducting monitoring activity, data collected, and any notes or comments.

- E4. If the results of the monitoring shows that the water quality standards or project performance standards are not being met additional monitoring and mitigation maybe required.
- E5. Any changes to the monitoring requirements must be approved in writing by Ecology.
- E6. Monitoring reports and data sheets shall be submitted to the Federal Permit Coordinator, Department of Ecology, Southwest Regional Office, PO Box 47775, Olympia, WA 98504-7775 annually within 30 days of the end of the construction season.

F. Emergency/Contingency Measures:

- F1. Any in-water work that is out of compliance with the provisions of this Order, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
 - F1a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
 - F1b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Permit Coordinator at (360) 407-6926.
 - F1c. Submit a 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 Port from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- F2. 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.

G. General Conditions:

- G1. 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.
- G2. This certification does not exempt the Port from, and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
- G3. The Port shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for Permit Application, or as otherwise approved by Ecology.
- G4. The Port shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

- G5. The Port 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.
- G6. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Port, and state agency personnel.
- G7. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
- G8. 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.
- G9. 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:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology, within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

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

In addition, please send a copy of your appeal to:

Loree' Randall
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

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

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 19 September 2005 at Lacey, Washington



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

Attachment # A
Water Quality Certification, Order # 2745
Statement of Understanding

I, _____, state that, I will be involved as an agent or contractor for the Port of Ilwaco in the removal and replacement of pilings and/or fender piles at the Port of Ilwaco Mooring Basin. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #2745 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

