



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

September 22, 2004

REGISTERED MAIL
RB 252 878 355 US

Ms. Anne and Mr. Jim Stice
7706 Eastside Dr NE
Tacoma, WA 98422

RE: Water Quality Certification Number 1182 for Corps Public Notice 200300907 to install two 20 foot long, 6 inch diameter micro piles to anchor a twin-cable aerial tram system on Puget Sound, near Brown's Point in Pierce County, Washington

Dear Ms. and Mr. Stice:

The public notice issued by U.S. Army Corps of Engineers on March 30, 2004 for proposed work on Puget Sound, near Brown's Point, Pierce County, Washington 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 applicants' determination that this work is consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicants' 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 Jo Sohneronne at 360 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a circular stamp or seal.

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

PJL:JS:dn
Enclosure

cc: Ron Wilcox, US Army Corps of Engineers Seattle District
Dave Molenaar, WDFW Region 6 Office
Mojgan Carlson, Pierce County Department of Planning and Land Services

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bcc: Penny Keys, ECY HQ/SEA
Yvonne Oliva, ECY HQ/SEA
Jeff Stewart, ECY SWRO/SEA

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

ORDER #1182
(Corps No. 200300907)
**Micro piles to anchor an aerial tram
near Brown's Point on Puget Sound,
Pierce County, Washington**

TO: Ms. Anne and Mr. Jim Stice
7706 Eastside Dr NE
Tacoma, WA 98422

ATTN: Ms. and Mr. Stice:

On March 30, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project involves installation of a twin-cable aerial tram system anchored at the beach with two 20-foot long, 6-inch diameter, titanium micro piles. Each pile will discharge up to 0.5 cubic yards of material. Up to 0.25 cubic yards of grout will be pumped into each micro pile via hose from an upland location. After work has been completed, the beach will be returned to its original grade and contoured by hand shoveling the excavated material back into the top 18-inches of the micro pile holes. The site is located on Puget Sound about 1 mile north of Brown's Point in Pierce County, Washington.

For purposes of this Order, the term "the applicants" shall mean Anne and Jim Stice 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:

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 Anne and Jim Stice (the applicants) subject to the following conditions:

A. No Further Impairment of Existing Water Quality

- A1. Puget Sound is a Class AA water of the state. Certification of this proposal does not authorize the applicants 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(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 applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- A2. Per WAC 173-201A-110(3), a temporary turbidity mixing zone is allowed immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. Under no circumstance shall the following standard be exceeded outside of a radius of 150 feet from the activity causing the turbidity:
- (1) 5 NTU over background when the background turbidity is 50 NTU or less; or
 - (2) more than a 10 percent increase in turbidity when the background is more than 50 NTU.

B. Timing:

- B1. This Order shall be valid during construction activities and is valid until the Corps of Engineers 404 permit expires.
- B2. As specified in Hydraulic Project Approval LOG NUMBER 00-E0988-03, work below the ordinary high water mark may only occur between August 16 and February 14 unless the Washington Department of Fish and Wildlife issues a new Hydraulic Project Approval modifying these dates.

C. Notification Conditions:

- C1. The applicants shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the start of work below OHWM.
- C2. The applicants shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
- C3. The applicants shall provide Ecology a signed statement (see Attachment #A for an example) from all agents and/or contractors involved in this project 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 applicants' name, project name, project location, the number of this Order, contact and contact's phone number.

D. Monitoring Conditions:

- D1. During and immediately after project construction, the applicants and/or their agent or contractor shall visibly monitor the temporary turbidity mixing zone. If water quality exceedances are observed outside the mixing zone, work shall cease immediately and the applicants 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 exceedances. The applicants or their contractor shall notify Ecology's Federal Permit Coordinator at the Southwest Regional Office at (360) 407-6926 of the exceedances.

D2.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.

E. Construction Conditions:

- E1. 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.
- E2. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris or other bed material) shall be relocated or used as fill or for any other purpose **except** that bed material located exactly where the new pilings are to be placed may be relocated and replaced as described in the public notice.
- E3. Uncured grout and grout by-products shall be completely sealed off from the ordinary high water mark (OHWM) and wetted perimeter of Puget Sound, totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter the OHWM or wetted perimeter of Puget Sound.
- E4. 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.
- E5. 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.

F. Emergency/Contingency Measures:

- F1. In the event the applicants is unable to comply with any of the terms and conditions of this Order, due to any cause the applicants shall:
 - 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 applicants 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.

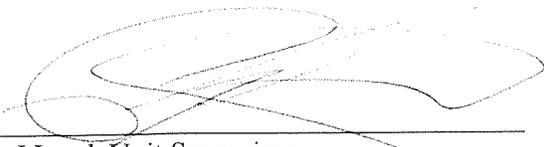
- F3. During and immediately after project construction, the applicants, agent, or contractor shall visibly monitor the area for distressed or dying fish. If water quality exceedances are observed outside the temporary turbidity mixing zone, in-water work shall cease immediately and the applicants, their agent or contractor shall contact Ecology's Southwest Regional Federal Permit Coordinator at 360 407-6926.

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 Order does not exempt the applicants from, and is conditioned upon compliance with, other statutes and codes administered by federal, state, and local agencies.
- G3. The applicants shall construct and operate the project in a manner consistent with the project description contained in the JARPA and Public Notice for certification, or as otherwise approved by Ecology.
- G4. The applicants shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction for which the federal license or permit is being sought.
- G5. The applicants 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.
- G6. The applicants 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.
- G7. 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 applicants, and state agency personnel.
- 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. 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.

Any person aggrieved by this Order may obtain review thereof by appeal. The applicants can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the postmarked date of the permit. The appeal must be sent 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, Attn: Loree' Randall 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 9/22/04 at Lacey, Washington.



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

Attachment # A

Water Quality Certification 1182 Statement of Understanding

I, _____, state that, I will be involved as an agent or contractor for Anne and Jim Stice in the installation of two micro piles to anchor an aerial tram near Brown's Point on Puget Sound, Pierce County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #1182** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company