



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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REGISTERED MAIL

September 17, 2004

Ms. Patricia Miller
Seattle District Corps of Engineers, Navigation Branch
P.O. Box 3755
Seattle, WA 98124-3755

RE: Water Quality Certification/Modification No.1648 1st Amendment
Corps No. CENWS-OD-TS-NS-22
Maintenance dredging of the Snohomish River navigation channel, downstream and
upstream settling basins, Everett, Snohomish County, Washington.

Dear Ms. Miller:

On September 14, 2004, Ecology issued the Seattle District Corps of Engineers, Navigation Branch (Corps) a Water Quality Certification (Certification) for the above-referenced project. After discussions with the Corps, Ecology acknowledged the need to clarification and/or change several conditions in the Certification. Attached is an amended Certification/Order. The conditions that have been modified are bold and underlined.

This amendment may be appealed by following the procedures described in the Order. If you have any questions about this letter or the enclosed Order, please contact Helen Pressley at 360 407-6076.

Sincerely,

Brenden McFarland
Environmental Review and Transportation Section Manager
Shorelands and Environmental Assistance Program

cc: Victoria Luiting, Corps
Yvonne Oliva, Ecology



DEPARTMENT OF ECOLOGY

In the Matter of Granting a Water) **Order # 1648 1st Amendment**
Quality Certification/Modification to:) (Corps No. CENWS-OD-TS-NS-22)
The Seattle District Corps of Engineers) Maintenance dredging of the Snohomish
In Accordance with 33 U.S.C. 1341) River navigation channel, downstream
[FWPCA § 401], RCW 90.48.260, RCW) and upstream settling basins, Everett
90.48.120 and WAC 173-201A) Washington, Snohomish County

ATTN: Ms. Patricia Miller
Seattle District Corps of Engineers, Navigation Branch
P.O. Box 3755
Seattle, WA 98124-3755

On April 14, 2004 a request for water quality certification from the State of Washington was submitted for the above-referenced project(s) pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review as a revision to Corps Public Notice CENWS-OD-TS-NS-22 dated April 14, 2004.

The proposed work described in the above referenced public notice is the maintenance dredging by the Corps of Engineers of the navigation channel, downstream and upstream settling basins in the lower Snohomish River. During the years 2005 to 2009, hydraulic pipeline and/or clamshell dredging of approximately 800,000 cubic yards of clean sandy material from the upstream settling basin and 200,000 cubic yards from several shoals in the 8-foot deep river channel is proposed with disposal at a combination of several confined upland sites. These include the PSR and/or the Port Gardner open water site, and possibly Jetty Island. Also proposed is hydraulic pipeline and/or dredging of approximately 500,000 cubic yards of clean sandy dredged material from the downstream settling basin with disposal at Jetty Island, PSR and/or the Port Gardner open water site. The Corps is also proposing to place approximately 150,000 cubic yards of sediment at the River Side Business Park Disposal site for beneficial uses.

AUTHORITIES

In exercising authority under 33 U.S.C. 1341, RCW 90.48.260 and RCW 90.48.120, 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.

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 Seattle District Corps of Engineers subject to the following conditions:

I. Short-term Modification to the Water Quality Criteria.

The dredging and disposal needed to protect navigational safety may result in the temporary exceedance of certain state water quality criteria or special conditions specified in Chapter 173-201A WAC. Under WAC 173-201A-110, Ecology may grant a "Short-term Modification to allow for such exceedances of the criteria on a short-term basis when necessary or to otherwise protect the public interest".

The project reach of the lower Snohomish River is classified as Class A waters; thus, Class A water quality standards of 173-201A-030(2) apply, except as specifically modified by this order. Temporary dilution zones, or mixing zones, are authorized for dredging and/or disposal to allow for temporary exceedances of certain water quality standards as a result of disturbing in-place sediments. Within the mixing zones, except as noted, water quality criteria are modified as follows:

1. **Turbidity.** Class A water quality standards for turbidity are waived within the specified mixing zones as outlined within specific conditions of this Order.
2. **Dissolved Oxygen.** Class A within the specified dilution zones, provided that total dissolved oxygen levels do not cause water quality standards for dissolved oxygen to drop below 6.0 mg/L.

II. Mixing Zones.

Mixing zones and other applicable conditions are specified below under the separate categories of the project. The mixing zones are considered reasonably sufficient to allow for the temporary impacts of the project. All other applicable water quality standards shall remain in effect in the mixing zones and all water quality standards are expected to be met outside of the mixing zones.

III. Duration of the Modification.

Per WAC 173-201A-110, a modification of a water quality criterion (such as turbidity) within a mixing zone is intended for short-term periods of time, *such as for hours or days rather than weeks or months*. In this case, Ecology finds that the effects of maintenance dredging are short-term in that dredging/disposal occurs in a matter of days. However, within the context of this certification, no degradation of water quality will be allowed if such degradation is found to significantly interfere with or become injurious to characteristic water uses or cause long-term harm to the environment of the lower

Snohomish River.

This modification does not authorize any in-water work during closure periods specified within this Order or the HPA.

IV. Monitoring.

Water Quality Monitoring shall be done during dredging, upland disposal, return water, and/or beach nourishment. The following monitoring requirements shall be undertaken to assess the water quality effects of the dredging operation, upland disposal, return water, and/or beach nourishment, and barge dewatering. The results will be used to: 1) assess compliance with water quality standards; 2) provide notification of any exceedance of a standard; and 3) assess the need for continuing the monitoring activity and appropriate frequency of monitoring. Monitoring results (excepting exceedances, which shall be reported immediately) shall be sent weekly to Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.

- A. An exceedance of the water quality standards could result in corrective action depending upon the degree of the exceedance and/or the risk posed by the exceedance to beneficial uses of the water body.
- B. Monitoring shall be done for the first five days of dredging. Monitor 2 times per day as outlined in the Corps monitoring plan dated August 17, 2004.
 1. At the monitoring locations, water samples shall be taken at the surface (2.0 feet below), mid-depth, and near bottom (2.0 feet above). Samples taken within the mixing zone and at the mixing zone boundary shall be adjusted within the depth range to target the turbidity plume which will be tracked visually and/or hydro-acoustically. If no distinct turbidity plume can be identified within the depth range, the samples will be taken at the standard depths (i.e., surface, mid-depth, and near bottom).
 2. Monitoring points shall be 100 feet up stream (representative of background), at the outer limit of the mixing zone (point of compliance) and at the discharge point
- C. ~~Monitoring shall be done for the remainder of the dredging period. Condition IV.C is deleted from this Order.~~

V. Dredging.

The Corps shall conduct its dredging activities according to the following conditions:

- A. The following general condition applies to all dredging activities in the navigational channel and the downstream and upstream settling basins.

Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.

B. The following specific conditions apply to each type of dredging activity:

1. Clamshell Dredging:

- a. Dilution Zone: ~~150 feet radially and 600 feet downcurrent~~ from the point of dredging.
- b. Each pass of a clamshell bucket shall be complete with no stockpiling done in the water. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
- c. Large debris picked up by a clamshell dredge shall be removed from the dredged sediment prior to disposal at disposal sites. Large debris includes old pilings or sinker logs [longer than three feet or greater than one foot in diameter], tree stumps, and man-made materials such as scrap metals, car bodies, broken concrete or asphalt and the like.

2. Hydraulic Dredging:

- a. Mixing Zone for Hydraulic Dredging: ~~150 feet radially from~~ 300 feet downcurrent of the point of dredging ~~and 300 feet downcurrent.~~
- b. The hydraulic dredge shall be operated with the intake positioned at or below the surface of the sediment being removed. The intake shall be raised no higher than three feet above the bed surface for brief periods to purge or flush the intake system.

3. General Dredging Conditions:

- a. The 460,000 cubic yards of dredged material shall be distributed to provide the greatest benefit to the navigational requirements and potential beneficial uses of the material. The approximately 800,000 cubic yards of clean sandy material from the upstream basin, and the approximately 500,000 cubic yards from the downstream basin shall be disposed of at either the Port Gardner open water site, the Pacific Sound Resources site, the Riverside Business Park Disposal site, or at Jetty Island. Disposal is authorized only within the footprint prescribed by the DMMP for the disposal sites.
- b. A Dredging Plan is required and shall be made available for review and approval at the pre-construction meeting to be convened at the Seattle Corps of Engineers office prior to the start of dredging.

- c. All dredging is to be done using either a clamshell dredge or a hydraulic dredge. The use of any other type of dredge will require prior approval from Ecology.

VI. Disposal.

The material proposed for dredging has been tested according to the procedures specified in the DMMP, a multi-agency program for the evaluation of dredged material. The proposed disposal of dredged materials would occur at the PSR Superfund Site in Elliott Bay, at the WDNR PSSDA open-water disposal site in Port Gardner and at the Riverside Business Park Disposal area. Other sites such as Jetty Island and/or alternative beneficial use sites shall be determined based on needs.

1. In-water Disposal:

- a. Disposal of dredged material at the PSSDA in-water disposal site in ~~Elliott Bay~~ **Port Gardner** shall be by bottom dump scow only; any other disposal method must be approved by Ecology.
- b. Both floatable and non-floatable debris greater than 24 inches in size shall be removed from the dredged material prior to disposal at the in-water disposal sites and shall be suitably disposed of at an upland location.

2. Upland Disposal

- a. Mixing Zone [for single-point Effluent Discharge]: 600 feet downcurrent from the point of discharge..
- b. The following best management practices (BMPs) shall be implemented at the upland disposal sites:
 1. The outfall should be located so as to provide the maximum amount of dilution or dispersion of the effluent and to minimize any potential scour or erosion effects to more sensitive aquatic resources.
 2. To the greatest extent practicable, the upland sites shall be stabilized to prevent significant offsite erosion of the dredged material by either water or wind transport.

VII. Emergency and/or Contingency Measures.

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

1. Cease operations causing the distressed or dying fish.
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. Ecology may require such sampling and analyses before allowing the work to resume.
4. Notify the Department of Ecology and the Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

VIII. Spill Prevention and Control.

- A. 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., 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 substances 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 Ecology's Northwest Regional Office at (425) 649-7000 (a 24-hour phone number).

IX. Duration of Water Quality Certification (WQC).

This WQC shall remain in effect for a period of five (5) years from date of issuance. Continuing maintenance 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:

1. New sources of potential contamination are discharged or otherwise stand to significantly affect the quality of sediments dredged from the Snohomish River navigation channel, or
2. New information indicates that dredging and/or disposal activities are having a significant adverse impact on water quality or characteristic uses of the lower Columbia-Snohomish River.

X. Notification

- A. The Corps or their designated contractor shall notify Ecology at least 14 days prior to the scheduled start of dredging in any year. The Ecology person to contact is Helen Pressley at (360) 407-6076.
- B. The Corps 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.

XI. 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. Copies of this Order shall be kept on the job site and readily available for reference by the Corps, Ecology personnel, the contractor, and other appropriate state and local government inspectors.
- C. Ecology retains jurisdiction to make modifications hereto through supplemental order, if it appears necessary to protect the public interest during the construction and monitoring of this project.
- D. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- E. 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. However, the expiration date may be

extended by Ecology at the request of the permittee.

XII. Penalties. Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

XIII. Appeal Process. Any person aggrieved by this Order may obtain review thereof by appeal. The applicant 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 shall be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia WA 98504-0903. Concurrently, copies of the appeal shall be sent to the Department of Ecology, Enforcement Section, 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 Sept 17, 2004 at Lacey, Washington



Brenden McFarland, Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology