



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 28, 2012

Beth McCasland
U.S. Army Corps of Engineers, Seattle District
PO Box 3755
Seattle, WA 98124

RE: Water Quality Certification Order #8730 for U.S. Army Corps of Engineers Reference #PL-10-08,
Ed Munro Seahurst Park Beach Restoration Phase II Project, Burien, King County, Washington

Dear Ms. McCasland:

On February 18, 2011, the U.S. Army Corps of Engineers, Seattle District submitted a request to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed Ed Munro Seahurst Park Beach Restoration Phase II project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Erik Stockdale

Shorelands and Environmental Assistance Program

ES:rrp:cja

Enclosure

By certified mail: 7011 0470 0003 3720 9435

cc: Laura Arber, Washington Department of Fish and Wildlife
Rolin Christopherson, Washington Department of Natural Resources
Steve Roemer, Burien Parks, Recreation, and Cultural Services
Stephanie Jewett, AICP City of Burien
Karen Myers, US Fish and Wildlife Service
Randy McIntosh, NOAA Fisheries
Fred and Hilva Novota
e-cc: David Pater – NWRO
Patrick McGraner – NWRO
Loree Randall – HQ
Raman Iyer – NWRO
Steve Radmacher seahurstim@msn.com
ecyrefedpermits@ecy.wa.gov



IN THE MATTER OF GRANTING A)	ORDER #8730
WATER QUALITY)	Corps Reference #PL-10-08
CERTIFICATION TO)	Ed Munro Seahurst Park Beach Restoration
U.S. Army Corps of Engineers,)	Phase II Project; Puget Sound, Burien, King
Seattle District)	County, Washington.
in accordance with 33 U.S.C. 1341)	
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

TO: U.S. Army Corps of Engineers, Seattle District
 PO Box 3755
 Seattle, WA 98124

On February 18, 2011, the U.S. Army Corps of Engineers, Seattle District submitted a request to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on March 7, 2011.

The restoration proposal includes:

- Removal of shoreline armoring: Approximately 1,795 linear feet of the existing seawall will be removed, along with 3,900 cubic yards of riprap and 1,770 cubic yards of gabions. 30,100 square feet of paving and approximately 22,000 cubic yards of upland soils also will be removed. A 450-foot-long section of the existing seawall will remain in place and a new 43-foot-long return wall will be constructed with 5,600 cubic yards of rock placed as rock toe protection.
- Beach nourishment: Approximately 18,500 tons of washed coarse gravel will be placed to create an underlying beach surface on an 8:1 slope from the backshore between elevation +14 feet MLLW and +3 feet Mean Lower Low Water (MLLW). Approximately 10,000 cubic yards of mixed gravel and sand will be placed over the coarse gravel on an 8:1 slope between elevations +1 foot MLLW and +15 feet MLLW.
- Riparian buffer and beach backshore planting: Install approximately 35,700 square feet of riparian buffer vegetation above elevation +14 feet MLLW, with approximately 27,350 square feet of backshore habitat from +12 to +16 feet MLLW.
- Drift sill (groin): One new groin will be installed in front of the Marine Technology Lab building and will include integration of tidepools.
- Fish Ladder Replacement: Replace existing fish holding pond and weir-type fish ladder at the outlet of North Creek with a new diversion, fish ladder, and holding pond.
- North Creek stream channel improvements: Replace existing 24-inch culvert and water tank diversion basin with a new 8-foot by 3-foot diversion sump/basin. Construct a natural stream channel downstream of the culvert and sump transitioning from 8- to 20-foot wide at the back side of the beach berm. Includes placement of cobble/boulder mix and large woody debris.

- Freshwater wetland: Construct approximately 5,400 square feet of freshwater wetlands in the backshore .
- Temporary loading ramp: Construction and removal of a temporary steel loading ramp supported by rocks for loading of the barge by trucks. The ramp will be removed when barge operations are complete.
- Upland improvements: Reconstruct existing lower parking lot, installation of rain gardens, construct crushed rock path and emergency access, relocation of utilities, relocate play area, install new picnic shelter and lawn areas.

The project is located at Ed Munro Seahurst Park, 2400 SW 140th Street, Burien, King County, Washington, Puget Sound, Section 13, T. 23N, R. 3E, WRIA 9.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined 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. §§ 1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. § 1313 and by Chapter 90.48 RCW, and with other applicable state laws; 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 activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

- A1. For purposes of this Order, the term "Applicant" shall mean U.S. Army Corps of Engineers, Seattle District and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #8730 and Corps Reference #PL-10-08.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 18, 2011, and the Project Description received by Ecology on January 5, 2012. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
- A4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
- A5. 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 lead workers, and state and local government inspectors.
- A6. 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, and/or to ensure that conditions of this Order are being met.
- A7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that 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 water quality.
- A8. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each 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 before construction begins at the project or mitigation sites.

- A9. 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.
- A10. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Native Planting Conditions:

- B1. Except as modified by this Order, the native planting areas are to be installed as depicted on the *Seahurst Beach Restoration, Phase II, Plant List*, received by Ecology on January 5, 2012.
- B2. In addition to the above-referenced planting plan, monitoring of the plantings shall take place per the *Seahurst Phase II, Wetland and Riparian Plant Monitoring Protocol*, dated January 2012, and the *Stewardship and Monitoring Plan, Seahurst Park North Shoreline Project*, prepared by Anchor QEA, LLC, dated May 2010, and the following requirements shall be conditions of this Order:

- a. As-Built Report (Year 0): A report documenting the topographic contours and plants installed in the native planting areas must be prepared when site construction and planting are completed. The report shall include the following:
- i. Vicinity map showing site access.
 - ii. Drawings that clearly identify in plain view the location and square footage of the planted area.
 - iii. The installed planting scheme showing approximate locations of plants and the time of planting.
 - iv. Photographs of planting areas taken from permanent reference points.
 - v. Locations of photopoints, and sampling sites.
 - vi. A description of any changes to the native planting plan that occurred during construction.
 - vii. Provisions for maintenance and monitoring of plants for five (5) years.

Two (2) copies of the as-built report shall be sent to Ecology's Northwest Regional Office, per Condition A2, within 60 days of completing installation of the native plantings.

- b. Monitoring: Five (5) years of monitoring is required. The condition of riparian plantings shall be recorded in years 1, 3, and 5 after the Year 0 report. Monitoring reports should document plant survival and vigor and include representative photos from permanent locations. Two (2) copies of all monitoring reports shall be submitted to Ecology per Condition A2 above by December 31 of each year that they are due.

- c. Performance Standards: The project shall meet the following performance standards:
- Survival of plantings after one year: 100%; survival after three years: 80%; and survival after four years and beyond: 80%. Percent cover may be substituted for survival after year 3 if individual plants are difficult to locate. Mean percent cover of planted species shall be no less than 40% at year 5.
- d. Maintenance: The Applicant is responsible for maintenance and protection of the native vegetation planting areas both throughout and after the 5-year monitoring period for riparian plantings. All plants that fail to survive for one (1) year after planting shall be replaced before or at the beginning of the next growing season.
- B3. Chemicals such as herbicides and fertilizers shall not be allowed to enter the nearshore during or after plantings of riparian vegetation.

Eelgrass Conditions:

- C1. Eelgrass monitoring shall be conducted per the *Stewardship and Monitoring Plan, Seahurst Park North Shoreline Project* (hereafter referred to as Monitoring Plan), prepared by Anchor QEA, LLC, dated May 2010, p. 28, or as modified by this Order or revised and approved by Ecology.
- C2. Eelgrass monitoring shall take place prior to the start and after completion of in-water work at the project site, and shall occur at a minimum for years 1, 3, and 5.
- C3. Two copies of each survey shall be provided to Ecology per A2 within 30 days of completion.

Forage Fish Conditions:

- D1. At least one (1) week prior to any construction activities within the intertidal zone at the project site, forage fish surveys shall be taken according to the *Draft Seahurst Park Phase II Pre-Construction Forage Fish Monitoring Plan*, dated June 10, 2010 (hereafter called "Forage Fish Monitoring Plan"), or as modified by this Order or revised and approved by Ecology.
- D2. During construction, forage fish surveys shall occur at least every week between October 1 and April 15.
- D3. All forage fish monitoring reports shall be submitted by hard copy and electronically on a weekly basis to Ecology per Condition A2.

E. Water Quality Conditions:

- E1. Puget Sound is classified as “Extraordinary Quality” and the criteria of that class apply except as specifically modified by this Order. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i).
- E2. North Creek and two unnamed streams are classified as “Core Summer Salmonid Habitat” and the criteria of that class apply except as specifically modified by this Order. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
- E3. The Applicant shall conduct in-water construction water quality sampling and monitoring as described in *Seahurst Park Nearshore Restoration Project, Phase II, Burien, Washington, Water Quality Monitoring Plan*, dated January 2012, or as modified by this Order or revised and approved by Ecology.
- E4. Locations of samples: At a minimum, sampling shall take place at:
- i. The point of compliance as specified in WAC 173-201A-210(1)(e)(i), which allows a 150-foot temporary area of mixing for turbidity resulting from disturbance of in-place sediments in Puget Sound, and
 - ii. The point of compliance as specified in WAC 173-201A-200(1)(e)(i), which allows a 100-foot temporary area of mixing for turbidity resulting from disturbance of in-place sediments in North Creek and two unnamed streams.

Background samples shall be collected outside the area of influence of the in-water work. Background samples shall be collected at the same frequency as the point of compliance samples.

E5. Detection of exceedances:

Marine Waters:

Water quality standards for turbidity in “Extraordinary Quality” waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-210(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.

Fresh Waters:

Water quality standards for turbidity in "Core Summer Salmonid Habitat" waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-200(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.

- E6. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- E7. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #8730, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- i. A description of the nature and cause of exceedance.
 - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.

F. Conditions for Construction Activities:

General Conditions:

- F1. The Applicant shall obtain and comply with the Construction Stormwater General Permit for this project.
- F2. Construction stormwater, sediment, and erosion control best management practices (BMPs; e.g., filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.

- F3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- F4. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- F5. The existing concrete seawall shall be removed from the beach and deposited upland such that it does not enter waters of the state.
- F6. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- F7. 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.
- F8. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.
- F9. Clean Fill Criteria: Applicant shall ensure that fill (sand and gravel) placed for the proposed project does not contain toxic materials in toxic amounts.
- F10. All manmade debris that has been deposited below the Ordinary High Water Line within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into freshwater areas shall be removed from the project area.
- F11. Earth-moving equipment shall remain landward of the toe of the beach fill at all times, except to retrieve non-native angular rock in the lower intertidal zone.
- F12. The following work shall be conducted in the dry during periods of low tide in order to minimize impacts to water quality:
- a. Rock and fill removal.
 - b. Sand and gravel placement.
 - c. Any necessary grading of beach fill.
 - d. Placement of any landslide material.
- F13. The culvert shall be installed in the dry or in isolation from the stream flow by the installation of a bypass flume or culvert, or by pumping the stream flow around the work area.

- F14. The culvert shall be installed to maintain structural integrity to the 100-year peak flow with consideration of the debris likely to be encountered.
- F15. Fill associated with the culvert installation shall be protected from erosion to the 100-year peak flow.
- F16. The culvert shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.
- F17. Disturbance of the streambed and banks shall be limited to that necessary to place the box culvert and any required channel modification associated with it. Affected streambed and bank areas outside the culvert and associated fill shall be restored to preproject configuration following installation of the culvert. Within one (1) year of project completion, the banks shall be revegetated with native or other approved woody species.
- F18. The culvert facility shall be maintained to ensure continued, unimpeded fish passage. If the structure becomes a hindrance to fish passage, prompt repair shall occur. Financial responsibility for maintenance and repairs shall be that of the owner(s).
- F19. If stockpiling of sand, gravel, and other coarse excavated material is conducted below the ordinary high water line, it shall be placed within a 25-foot work corridor waterward of the toe protection footing.
- F20. If sand, gravel, and other coarse excavated material is to be temporarily placed where it will come into contact with tidal waters, this material shall be covered with filter fabric and adequately secured to prevent erosion and/or potential entrainment of fish.
- F21. Excavated materials containing silt, clay, or other fine-grained soil shall not be stockpiled below the ordinary high water line.
- F22. All excavated or stockpiled material shall be removed from the beach within 72 hours of bulkhead construction. Upon removal of the excavated material, the beach shall immediately be returned to the preproject natural grade.
- F23. Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion.
- F24. All trenches, depressions, or holes created in the beach area shall be backfilled prior to inundation by tidal waters. Trenches excavated for base rocks may remain open during construction. However, fish shall be prevented from entering such trenches.
- F25. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following construction. These habitat features may be moved during construction if necessary.

- F26. Washing of material from barges is prohibited.
- F27. Project activities shall be conducted to minimize siltation of the beach area and bed.
- F28. Prior to initiating construction activities, the edge of the eelgrass habitat (*Zostera marina*) shall be marked with temporary buoys to provide a barge access corridor. Barge access shall be limited to a narrow corridor in an area where there is no eelgrass or minimal eelgrass presence. These buoys shall be removed upon project completion.
- F29. The Applicant shall operate the barge(s) and tug in deep water and minimal propulsion power so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments and impacts to marine vegetation habitats.
- F30. Minimal propulsion power shall be used when maneuvering barges between Mean Lower Low Water (MLLW) and the -20.0 tide elevation (MLLW=0.00) for the protection of eelgrass habitat.
- F31. Barges shall not be allowed to ground-out during construction between MLLW and the -20.0 tide elevation (MLLW=0.00) for the protection of eelgrass habitat.
- F32. Barges shall not ground on surf smelt spawning beds waterward of the existing bankline.
- F33. A temporary loading ramp consisting of steel mats and rocks shall be constructed for equipment access. The loading ramp shall be completely removed upon project completion.
- F34. Use of equipment on the beach shall be held to a minimum, with limited access areas, and limited to a narrow work corridor (~50 feet) waterward of the base rocks and seawall. Equipment shall not operate on the beach waterward or below the +5.0 foot MLLW tidal elevation, except in the drift sill area where equipment may operate down to +2.0 foot MLLW (0.0=MLLW).
- F35. Eelgrass shall be avoided during placement of the temporary loading ramp.
- F36. No derrick spuds or anchors may be used in eelgrass areas.
- F37. Anchors shall be set and retrieved vertically; anchor tension shall be maintained such that anchor cables do not drag.
- F38. Construction barge/boat movements shall not shade any portion of the eelgrass habitat for a continuous period longer than four (4) days between March 21 and September 21. Any portion of the eelgrass habitat that is shaded for four (4) consecutive days shall receive, at a minimum, three (3) consecutive days of uninterrupted natural light.

- F39. The Applicant shall implement BMPs to prevent and minimize spillage of sand and gravel off the conveyor belt during delivery onto the upper beach.
- F40. Transportation of material between the beach and barge shall be carried out within a clearly marked 50-foot-wide access zone. The access zone shall remain unchanged throughout construction.
- F41. The north and south boundaries of construction shall be clearly delineated and all equipment shall remain within these limits throughout the project.
- F42. Native riparian vegetation shall be left in place along the shoreline to the extent practicable.
- F43. Floating, bottom-weighted turbidity curtains shall be deployed and maintained in a functional manner to contain suspended sediments at the work site during in-water work.
- F44. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.
- F45. Miscellaneous broken, angular, non-native rocks in the mid and upper intertidal shall be removed from the beach.
- F46. All excess soils and rock shall be disposed of at an approved upland disposal site.
- F47. Dewatering water may not be discharged to Puget Sound, North Creek, or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) for pollutants of concern.
- F48. The remaining portion of seawall and new concrete return wall (~43 linear feet) shall have rock toe protection placed at a 2:1 slope.
- F49. Base rocks shall be buried a minimum of 18 inches below the preproject natural beach grade.
- F50. Rock for the bulkhead shall be composed of clean, angular material of a sufficient durability and size to prevent its being broken up or washed away by high water or wave action.
- F51. The new beach slope grades shall vary between 8.5:1 and 7.5:1.

- F52. The beach nourishment shall include a mix of sand and gravel within the following depths:
- a. Between tidal elevations of +14.0 foot and +3.0 ft MLLW, the base layer shall include ~18,500 tons of 2 1/2 -inch minus gravel to a maximum thickness of 3.5 feet
 - b. Between tidal elevations of +15.0 foot and +1.0 ft MLLW, the top layer shall include ~10,000 cubic yards of fine gravel and coarse sand.
- F53. All materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed.
- F54. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach onto the beach.
- F55. All existing upland stormwater drainage tightlines shall be incorporated into the seawall or other hard structure at the toe of the slope to prevent upland and shoreline erosion.
- F56. Bed material, other than material excavated for base rocks, shall not be utilized for project construction or fills.
- F57. Wood treated with preservatives, trash, waste, or other deleterious materials shall not be burned below the ordinary high water line. Limited burning of untreated wood or similar material may be allowed at or above the mean higher high water line.

G. Long-Term Project Monitoring Conditions:

- G1. Monitoring of the beach for stability of the nourishment sediment, quantification and understanding of accretion and erosion trends in the study area, and suitability of the study area for forage fish spawning shall be conducted per the *Stewardship and Monitoring Plan, Seahurst Park North Shoreline Project* (hereafter referred to as the "Beach Monitoring Plan"), dated May 2010, prepared by Anchor QEA, LLC, except as modified by this Order.

Monitoring will include the following:

- a. Pre-Construction Survey: Two copies of a survey documenting baseline conditions shall be conducted immediately prior to the restoration and submitted to Ecology per Condition A2.
- b. As-Built Report and Drawings: A report documenting the final design of the beach enhancement project area shall be prepared when site construction is completed. Two copies of the As-Built Report shall be sent to Ecology per Condition A2 within 60 days of completing construction, and in no case later than

May 15, 2013, unless approval is obtained in advance from Ecology. The project monitoring period shall commence with Ecology's acceptance of the Record Report.

- c. Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as described in the Beach Monitoring Plan at least once annually over a period of five (5) years. Two (2) copies of all monitoring reports shall be submitted to Ecology per Condition A2.

H. Emergency/Contingency Measures:

- H1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- H2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- H3. 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.
- H4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, 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 Applicant shall immediately take the following actions:
 - a. Cease operations at the location of the violation or spill.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
 - d. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, 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.

I. Timing Requirements

- II. This Order expires five (5) years from the date of issuance.
12. No in-water work shall occur below the ordinary high water line between February 16 and July 31 of any year in which work is being conducted.
13. In-water work below the ordinary high water line from October 1 through December 31 and January 1 through April 14 of any year may only be conducted with prior approval by Ecology after confirming absence of forage fish eggs. Work shall commence within 48 hours of notification by Ecology and shall be completed within seven (7) days of project commencement.

J. Reporting and Notification Requirement Conditions

- J1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager:
 - At least three (3) days prior to the start of each construction season.
 - Within seven (7) days after completion of construction for each season at the project site.

Notification, referencing Corps Reference #PL-10-08, Order #8730 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

- J2. Photos of this project shall be submitted per Condition A2 prior to and after the work is complete. These photos shall be submitted within 30 days of the project completion.
- J3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and planting is complete.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903



Erik Stockdale, Unit Supervisor
Wetlands/401 Unit
Shorelands and Environmental Assistance Program
Northwest Regional Office

Feb. 28, 2012

February 28, 2012

ATTACHMENT A

**U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
ED MUNRO SEAHURST PARK BEACH RESTORATION PHASE II PROJECT
Water Quality Certification Order #8730**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #8730 Section 401 Water Quality Certification for the U.S. Army Corps of Engineers, Seattle District Ed Munro Seahurst Park Beach Restoration Phase II Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company