STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (For the Speech or Hearing Impaired)

REGISTERED MAIL

November 30, 2004

Mr. George Blomberg
Port of Seattle
PO Box 1209
Seattle WA 98111-1209

RE: Water Quality Certification Docket #1798 / Corps No. 200400240 Disposal of up to 60,000 cubic yards of dredged material from Terminal 25 to the Elliott Bay Puget Sound Dredged Disposal Analysis (PSDDA) unconfined open-water disposal site in Elliott Bay, King County, Washington.

Dear Mr. Blomberg:

The above-referenced public notice for 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.

Pursuant to Section 307(c) (3) of the Coastal Zone Management Act of 1972, as amended, Ecology concurs with the applicant's determination that the proposed work described in the public notice is consistent with the approved Coastal Zone Management Program of Washington State.

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 about this letter or the enclosed Order, please contact Helen Pressley at 360/407-6076.

Sincerely,

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

cc: Penny Keys, Ecology
Jessica Winkler, Corps

DEPARTMENT OF ECOLOGY

In the Matter of Granting a Water Quality Certification to: The Port of Seattle In Accordance with 33 U.S.C. 1341 [FWPCA § 401], RCW 90.48.260, RCW RCW 90.48.12	))))))	**Order # 1798** **(Corps No. 200400240)** Disposal of up to 60,000 cubic yards of material from Terminal 25 on the southeast shoreline of East Waterway at the PSDDA unconfined open-water disposal site in Elliott Bay, King County, Washington

ATTN: Mr. George Blomberg
Port of Seattle
PO Box 1209
Seattle WA 98111-1209

On July 13, 2004, 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. 200400190. No comments were received by the department as a result of the public notice.

Up to 60,000 cubic yards of clean material will be dredged from Terminal 25 on the southeast shoreline of East Waterway under EPA's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The material will be disposed of at the Elliott Bay Puget Sound Dredged Disposal Analysis (PSDDA) unconfined open-water disposal site in Elliott Bay, King County, Washington.

This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

AUTHORITIES

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

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),

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 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 Port of Seattle (Port) subject to the following conditions:

I. **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 Elliott Bay Open-Water disposal site.

II. Emergency and/or Contingency Measures:

A. If disposal results 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. 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.

III. 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).

IV. Notification:

The Port 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.

V. 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 Port. 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.

C. The Port 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 discharge. However, the expiration date may be extended by Ecology at the request of the permittee.

VI. 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.

VII. Appeal Process.

Any person aggrieved by this Order (Order #1798) 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 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 the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, 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 Nov 30, 2004 at Lacey, Washington

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