

APPENDIX II

**Washington State Department of Fish and Wildlife
Hydraulic Project Approval**

December 19, 2000



HYDRAULIC PROJECT APPROVAL
 RCW 77.55.100 - appeal pursuant to Chapter 34.05 RCW

State of Washington
 Department of Fish and Wildlife
 Region 6 Office
 48 Devonshire Road
 Montesano, Washington 98563-9618

DATE OF ISSUE: December 19, 2000

LOG NUMBER: 00-S0472-04

At the request of, Dick Gilmur, on December 19, 2000, this Hydraulic Project Approval (HPA), which now supersedes all previous HPAs for this project, is a change of the original HPA issued December 11, 2000.

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Port of Tacoma ATTENTION: Dick Gilmur, Director of Environmental Affairs Post Office Box 1837 Tacoma, Washington 98401-1837 (253) 383-5841 Fax: (253) 428-8679	Not Applicable

PROJECT DESCRIPTION: Expand the Maersk Sealand Pier Container Facility, Pile driving

PROJECT LOCATION(s): 1002 Milwaukee Way, Tacoma, WA and the Puyallup Tribe Trust Land in the Hylebos Waterway.

<u>#</u>	<u>WRIA</u>	<u>WATER BODY</u>	<u>TRIBUTARY TO</u>	<u>1/4 SEC.</u>	<u>SEC.</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>COUNTY</u>
1	10.MARI	Sitcum Waterway	Commencement Bay	NE	33	21 North	03 East	Pierce
2	10.MARI	Sitcum Waterway	Commencement Bay	NW	34	21 North	03 East	Pierce
3	10.MARI	Hylebos Waterway	Commencement Bay	NW	26	21 North	03 East	Pierce
4	10.MARI	Hylebos Waterway	Commencement Bay	SW	26	21 North	03 East	Pierce

NOTE: This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Codes. It is the permittee's responsibility to apply for and obtain any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

NOTE: Prior to adoption of the U.S. Army Corps of Engineers permit no. 2000-2-00472, this Hydraulic Project Approval was previously referenced to Log No. 00-E5943-02.

NOTE: This Hydraulic Project Approval may be modified for timing restrictions (provision No. 1) in the event that new information or analysis (e.g., Biological Opinion) become available.

NOTE: Provision No. 14 is implementation of additional mitigation requirements by the National Marine Fisheries Service (NMFS) as a result of Section 7 consultation discussions with the Port of Tacoma (Port). At the request of the Port, WDFW has incorporated these additional mitigation measures into the body of the HPA.

NOTE: A Memorandum Of Agreement (MOU) exists between WDFW and the National Marine Fisheries Service (NMFS) and the United States Fish and Wildlife Service (USFWS). The intent of the MOU is for WDFW to develop a interim process by which HPA issuance minimizes "the risk of take of federally listed fish and shellfish". In order to comply with this interim process HPA issuance shall be no later than August 15, 2002. Limiting the HPA issuance to August 15, 2002 will permit revisions to the hydraulic code compliant with ESA requirements. If the project is not complete by August 15, 2002, the permittee is required to request a time extension prior to this date. WDFW will renew the HPA using the existing hydraulic code or shall modify the HPA to come into compliance with ESA requirements.

PROVISIONS



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1. **TIMING LIMITATIONS:** The project may begin **Immediately** and shall be completed by **August 15, 2002**, provided:
 - a. Work below the ordinary high water line shall occur only from **August 16** through **February 14** of any year for the protection of migrating juvenile salmonids.
2. **NOTIFICATION REQUIREMENT:** The permittee or contractor shall notify the Area Habitat Biologist (AHB) listed below of the project start date. Notification shall be received by the AHB at least seven working days prior to the start of construction activities. The notification shall include the permittee's name, project location, starting date for work, and the control number for this Hydraulic Project Approval.
3. Work shall be accomplished per plans and specifications entitled, Pier Extension Project, dated March, 2000, and submitted to the Washington Department of Fish and Wildlife, except as modified by revisions to the Mitigation Plan (October, 2000). These plans reflect design criteria per Chapter 220-110 WAC. These plans reflect mitigation procedures to significantly reduce or eliminate impacts to fish resources. A copy of these plans shall be available on site during construction.
4. All manmade debris on the beach shall be removed and disposed of upland such that it does not enter waters of the state.
5. The pier shall not exceed the following sizes and specifications: 118-foot width; 600-foot length; the two (2) truck accessways shall comply with plans and specifications approved by WDFW.
6. The existing mooring dolphin and catwalk shall be relocated to the northern portion of the project site as indicated in project plans.
7. The relocated mooring dolphin shall comply with plans and specifications approved by WDFW.
8. As specified in the application, the pilings shall be steel or concrete-type piles.
9. Beach area depressions created during project activities shall be reshaped to preproject beach level upon project completion.
10. No treated wood shall be used for construction, as indicated in the plans.
11. Stormwater shall be treated in compliance with existing permit(s) issued by the Washington State Department of Ecology (Ecology), inclusive of the 1992 Stormwater Management Manual For the Puget Sound Basin.

Mitigation Provisions

12. Impacts to fish life shall be mitigated for per plans and specifications of the Maersk-Sealand Pier Extension Project Mitigation Plan, issued March, 2000 and revised October, 2000. The Port of Tacoma (the Port) and WDFW agree that impacts at the projects site up to the OHWL, as determined by WDFW, are fully compensated for by the mitigation. The Port and WDFW agree that the "mitigation site" extends from the top-of-the-cut slope (approximately +16.0-ft., MLLW, as shown in the as-built plans) waterward to the toe-of-the-cut (elevations may go as low as +6.0-ft., MLLW, to allow blending of contours with existing habitat), and that the Port will manage the entire area as the "mitigation site".



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- 13. Monitoring plan as revised on October 17, 2000 is approved, with the change that year 6 monitoring will occur in year 8.
- 14. The riprap slope located under the northwestern truck accessway, as measured from the waterward edge of the truck accessway and continue southerly along the shoreline (approx. 100-lineal feet.), and between +11.8 ft., MLLW to -10.0 ft., MLLW shall be enhanced with placement of select material with the following sizes and specifications:
 - a. Select material shall be applied at a rate of approximately 800 cubic yards per acre or approximately 80 cu yards for the entire enhancement area.
 - b. Select material shall be placed approximately 6-inches in depth for the entire area.
 - c. Material shall be angular shoulder ballast and comply with the following sieve size and percentages:

	Sieve Size	Percent Passing
i.	2-1/2"	100
ii.	3/4"	40-80
iii.	1/4"	5 max.
iv.	U.S. No. 100	0-2
v.	% Fracture	75 min.

SEPA: DNS by Port of Tacoma final on April 6, 2000.

APPLICATION ACCEPTED: December 8, 2000

ENFORCEMENT OFFICER: Boone [P2]

David C. Molenaar (360) 902-8303
Area Habitat Biologist

for Director
WDFW

- cc: Kathryn McLeod, AG Office
Randy Carman
Helen Pressely, Ecology
Thom Hooper, NMFS, Lacey
Fred Seavy, USFWS, Lacey
Jack Gossett, USACOE, Seattle
Bill Sullivan, Puyallup Tribe
Glenn St. Amant, Muckleshoot Tribe
Karie Hayashi, City of Tacoma Planning and Land Services

GENERAL PROVISIONS

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 77.55 - formerly RCW 75.20). Additional authorization from other public agencies may be necessary for this project.



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This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.

This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

APPEALS - GENERAL INFORMATION

IF YOU WISH TO APPEAL A DENIAL OF OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290:

A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA; or
- (B) An order imposing civil penalties.

It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100 OR 77.55.140:

A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA;
- (B) An order imposing civil penalties; or
- (C) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and



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shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290:

A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.

Slope Enhancement with Select Substrate

The Port proposes to place select substrate material on a portion of the riprap slope that is to be covered by the proposed pier and the bayward truck accessway. The purpose of this select material is to improve the characteristics of the substrate for production of epibenthic prey.

The select material will be angular shoulder ballast (2 ½-inch minus, see specifications below) and will be placed between MHHW (elevation +11.8 ft MLLW) and -10 ft MLLW for a distance of approximately 100 lineal feet of the shoreline. (This will be measured from the waterward edge of the truck accessway and continue southerly along the shoreline.) The action will improve the substrate over an area of approximately 0.1 acre of intertidal and shallow subtidal habitat. The angular shoulder ballast will be applied at a rate of approximately 800 cu yds per acre. This corresponds to a depth of approximately 6 inches and volume of approximately 80 cu yds for the area specified. The select substrate material will not form a continuous layer over the riprap. Instead, it will fill the interstitial spaces between the riprap. Subsequent wave action may redistribute the material along or down the slope resulting in a mosaic of habitat that varies from gravel to riprap.

The angular shoulder ballast will be delivered to the site by truck or barge. The material will be placed with equipment working from the upland or a barge. It is expected that the Port's contractor will place the select substrate material concurrent with the start of construction while pile driving is occurring in other portions of the Project Area. However, it is recognized that piles may be driven before or after placement of the select substrate material in certain portions of the described area based on the contractor's specific work activities.

The angular shoulder ballast will provide a higher quality substrate under this end of the structure that has a northwestern exposure than what the existing riprap alone will provide, thereby improving production of epibenthic prey. The angular shoulder ballast will provide better support for primary productivity than the existing riprap alone will provide and it will trap more organic detritus. Overall, the placement of the angular shoulder ballast as described will increase the production of epibenthic prey available under the new pier and truck accessway and reduce impacts at the Project site.

Shoulder Ballast

Sieve Size	Percent Passing
2½" square	100
¾" square	40-80
¼" square	5 max.
U.S. No. 100	0-2
% Fracture	75 min.

All percentages are by weight.

APPENDIX III

**Washington State Department of Ecology
Water Quality Certification**

December 22, 2000

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

ORDER #CORPS #2000-2-00472
to drive piling and install a 118- by
600-foot concrete pile-supported pier
extension at the northern end of the
existing 1,600 Maersk Sealand pier;
add two concrete, pile-supported
truck accessways to the pier; and
relocate the northern existing
mooring dolphin and catwalk to the
end of the new pier extension in
Sitcum Waterway, Tacoma, Pierce
County, Washington

TO: Port of Tacoma
PO Box 1837
Tacoma WA 98401-1837

ATTN: Mr Dick Gilmur:

A Public Notice for issuance of a water quality certification from the State of Washington has been distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project is to drive piling and install a 118- by 600-foot concrete pile-supported pier extension at the northern end of the existing 1,600 Maersk Sealand pier; add two concrete, pile-supported truck accessways to the pier; and relocate the northern existing mooring dolphin and catwalk to the end of the new pier extension in Sitcum Waterway, Tacoma, Pierce County, Washington.

Other Approvals/Permits:

- * SEPA DNS issued April 6, 2000 by the Port of Tacoma
- * HPA #00-S0472-04 issued December 19, 2000 by the Washington State Department of Fish and Wildlife
- * Shoreline Conditional Use Permit #SHR2000-00009 issued September 8, 2000 by the City of Tacoma

Water quality conditions of the above permits and approvals shall be considered conditions of this Order.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341 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 and Chapter 173-201A WAC, certification is granted to Port of Tacoma (Applicant) subject to the following conditions:

A. No Further Impairment of Existing Water Quality:

A1 Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC), including the state sediment quality standards (173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

A2. Commencement Bay, (WRIA #10, Waterbody Segment #WA-10-0010 Class A water of the state) is on the current 303(d) list of impaired water bodies for exceeding water quality standards for 2,4 Dimethylphenol, Butylbenzyl phthalate, Cadmium, Copper, Di-n-butyl phthalate, Dibenzofuran, Diethyl phthalate, Dissolved oxygen, Fecal coliform, Fluoranthene, Fluorene, Lead, Mercury, N-nitrosodiphenylamine, Napthalene, Phenanthrene, Phenol, Silver, Total PCB's, and Zinc . This project shall not result in further exceedances 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.

This project will be out of compliance with this certification if discharges from the project exceed limits established in 173-201A-030(1) WAC and/or 173-201A-040 WAC.

A3. Stormwater Management Requirements

All stormwater discharges from the project shall be in compliance with state of Washington surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC) and ground water quality standards (Chapter 173-200 WAC).

- a) The Applicant shall design, construct, operate, and maintain stormwater treatment facilities to ensure that discharges will not result in exceedances of state water quality

The river is impermeable

criteria in receiving waters. All runoff from impervious surfaces shall be treated using all known and reasonable treatment (AKART).

- a) The Applicant shall design the stormwater treatment facilities to meet Ecology's stormwater management manual for the Puget Sound basin or other equivalent manuals approved by Ecology. A range of pollution prevention (source control, operational, and treatment BMPs) should be included.
- b) The Applicant may propose other BMPs (than those now contained in an approved manual) for stormwater treatment if it can be demonstrated that they will result in stormwater discharges that meet the state water quality standards. Any proposed changes are subject to review and approval by Ecology.
- c) The Applicant shall prepare a stormwater pollution prevention plan (SWPPP) for long-term operation and maintenance of this project. If a SWPPP already exists for this project, it should be amended as appropriate to include any activities that are not currently covered.

B. Temporary Modification of Water Quality Standards:

- 1) Project construction, operation, and maintenance shall be done in compliance with WAC 173-201A. **This certification does not authorize a modification of standards above those established in WAC 173-201A.**

C. Construction Conditions:

- 1) All construction debris shall be properly disposed of on land so that it cannot enter the waterway or cause water quality degradation to state waters.
- 2) All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
- 3) Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
- 4) At the completion of construction, hydroseeding may be done to stabilize slopes and soils until other required planting is completed. Hydroseed mix shall consist of native, non-invasive, or annual plant species only.
- 5) Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES or state waste discharge permit.

D. Emergency/Contingency Measures:

- 1) 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
 - a) Cease operations.
 - b) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - 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 material and used cleanup materials.
- 2) 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 Southwest Regional Spill Response Office at (360) 407-6300.
- 3) 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.
- 4) Toxic conditions resulting in distressed or dying fish (including dissolved oxygen levels below 5.0 mg/L) are not allowed. If these conditions exist, construction shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
- 5) Construction monitoring: During and immediately after project construction, the Applicant or contractor shall visibly monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

General Conditions:

- 1) 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.
- 2) This certification does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
- 3) The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
- 4) The Applicant 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 and/or

discharge for which the federal license or permit is being sought.

- 4) The Applicant 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.
- 5) The Applicant 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.
- 6) 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 Applicant, and state agency personnel.
- 7) The Applicant shall ensure that all appropriate supervisors and contractors at the project site and mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each supervisor 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 7 days before construction begins at the project or mitigation sites. The Applicant shall also provide a similar signed statement to Ecology from each new supervisor or contractor hired or assigned after the project begins within 30 days of hiring.
- 8) Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
- 9) 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.
- 10) 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 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, 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 _____ at Lacey, Washington

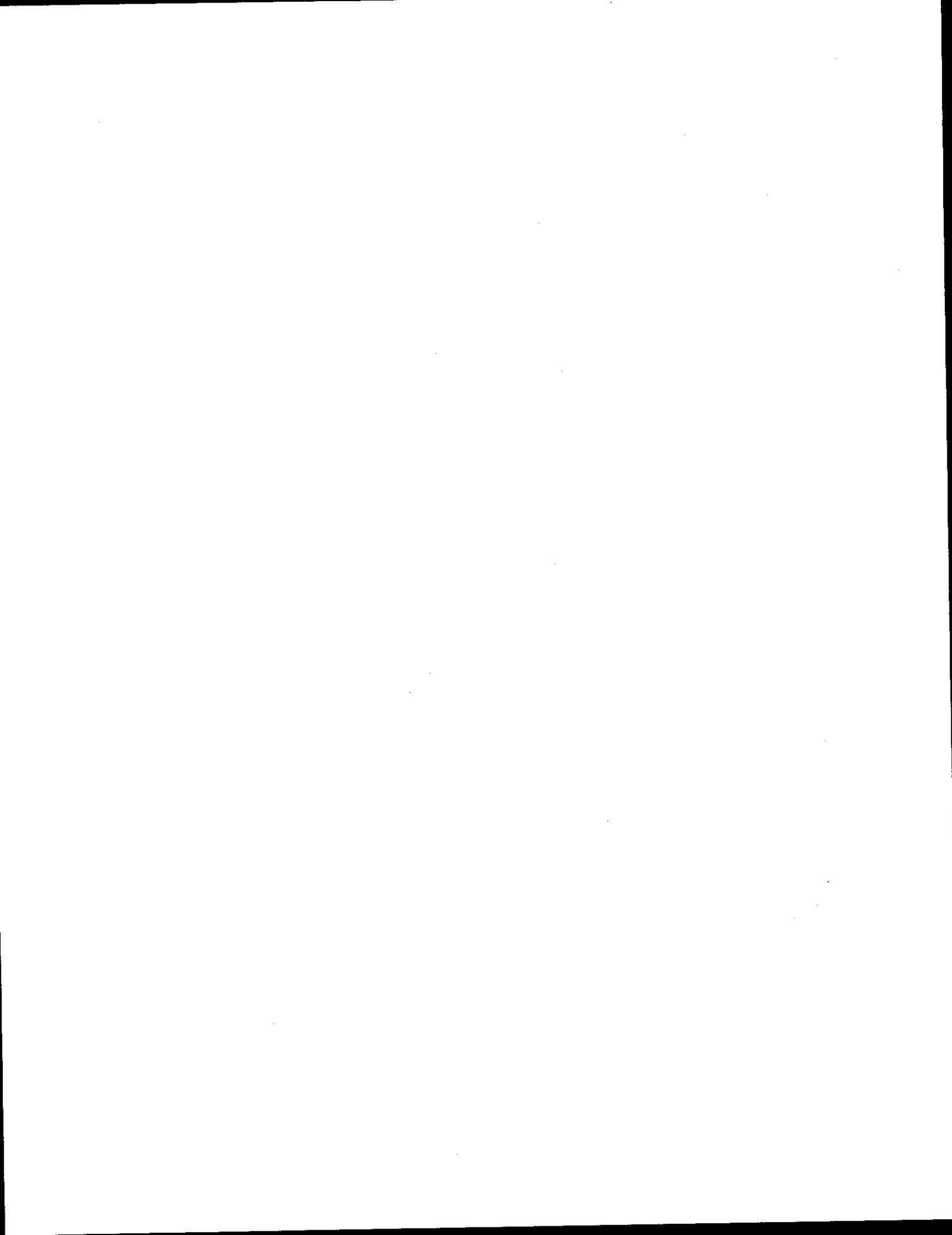
Water Quality Certification #00-2-00472
December 22, 2000
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Gale Blomstrom, Section Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

APPENDIX III

**Washington State Department of Ecology
Water Quality Certification**

December 22, 2000



IN THE MATTER OF GRANTING)
A WATER QUALITY)
CERTIFICATION TO)
the Port of Tacoma)
in accordance with 33 U.S.C. 1341)
FWPCA § 401, RCW 90.48.260)
and WAC 173-201A)

ORDER #CORPS #2000-2-00472
to drive piling and install a 118- by
600-foot concrete pile-supported pier
extension at the northern end of the
existing 1,600 Maersk Sealand pier;
add two concrete, pile-supported
truck accessways to the pier; and
relocate the northern existing
mooring dolphin and catwalk to the
end of the new pier extension in
Sitcum Waterway, Tacoma, Pierce
County, Washington

TO: Port of Tacoma
PO Box 1837
Tacoma WA 98401-1837

ATTN: Mr Dick Gilmur:

A Public Notice for issuance of a water quality certification from the State of Washington has been distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project is to drive piling and install a 118- by 600-foot concrete pile-supported pier extension at the northern end of the existing 1,600 Maersk Sealand pier; add two concrete, pile-supported truck accessways to the pier; and relocate the northern existing mooring dolphin and catwalk to the end of the new pier extension in Sitcum Waterway, Tacoma, Pierce County, Washington.

Other Approvals/Permits:

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- * Shoreline Conditional Use Permit #SHR2000-00009 issued September 8, 2000 by the City of Tacoma

Water quality conditions of the above permits and approvals shall be considered conditions of this Order.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341 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 and Chapter 173-201A WAC, certification is granted to Port of Tacoma (Applicant) subject to the following conditions:

A. No Further Impairment of Existing Water Quality:

A1 Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC), including the state sediment quality standards (173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

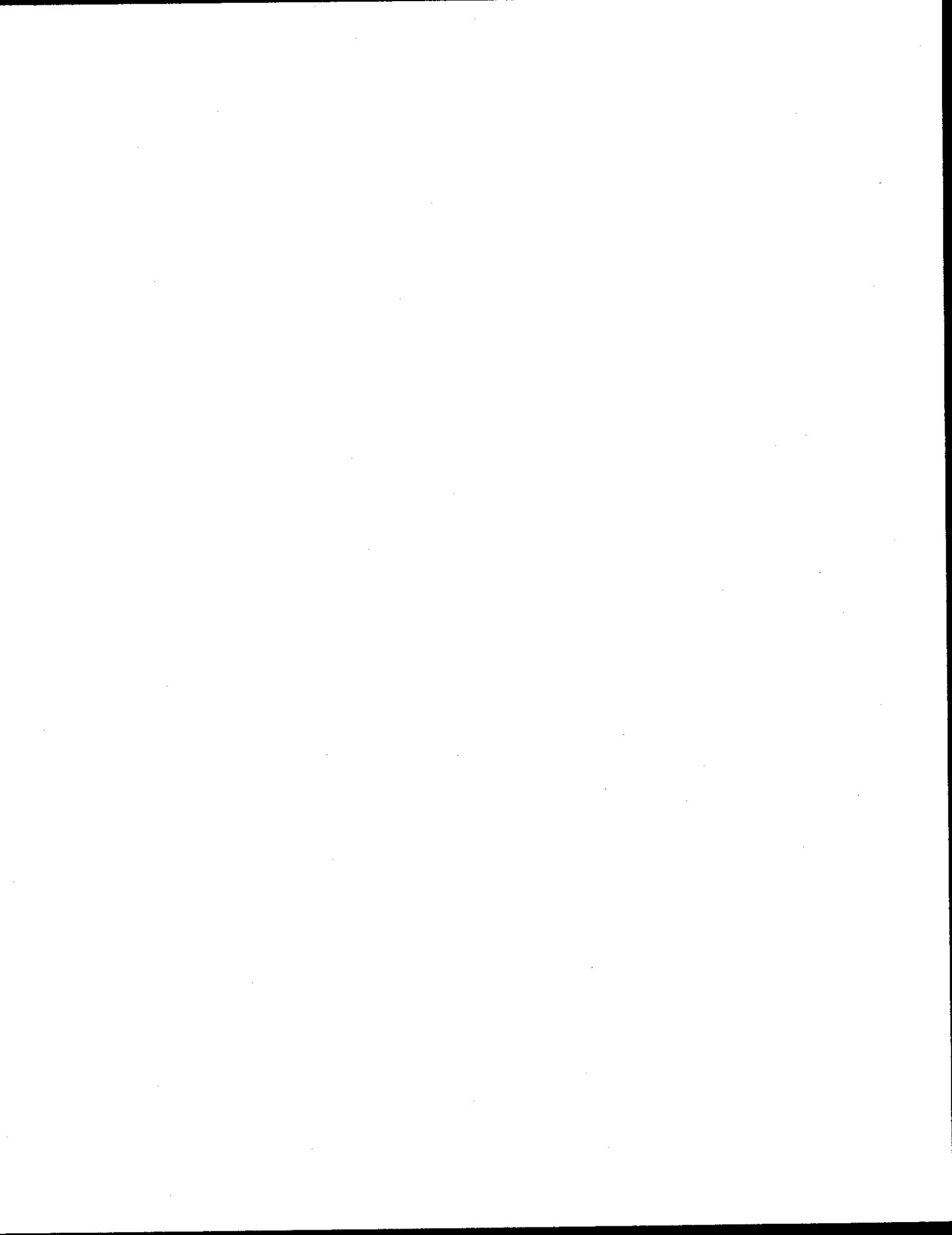
A2. Commencement Bay, (WRIA #10, Waterbody Segment #WA-10-0010 Class A water of the state) is on the current 303(d) list of impaired water bodies for exceeding water quality standards for 2,4 Dimethylphenol, Butylbenzyl phthalate, Cadmium, Copper, Di-n-butyl phthalate, Dibenzofuran, Diethyl phthalate, Dissolved oxygen, Fecal coliform, Fluoranthene, Fluorene, Lead, Mercury, N-nitrosodiphenylamine, Napthalene, Phenanthrene, Phenol, Silver, Total PCB's, and Zinc. This project shall not result in further exceedances 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.

This project will be out of compliance with this certification if discharges from the project exceed limits established in 173-201A-030(1) WAC and/or 173-201A-040 WAC.

A3. Stormwater Management Requirements

All stormwater discharges from the project shall be in compliance with state of Washington surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC) and ground water quality standards (Chapter 173-200 WAC).

- a) The Applicant shall design, construct, operate, and maintain stormwater treatment facilities to ensure that discharges will not result in exceedances of state water quality



The plan is impermeable

criteria in receiving waters. All runoff from impervious surfaces shall be treated using all known and reasonable treatment (AKART).

- a) The Applicant shall design the stormwater treatment facilities to meet Ecology's stormwater management manual for the Puget Sound basin or other equivalent manuals approved by Ecology. A range of pollution prevention (source control, operational, and treatment BMPs) should be included.
- b) The Applicant may propose other BMPs (than those now contained in an approved manual) for stormwater treatment if it can be demonstrated that they will result in stormwater discharges that meet the state water quality standards. Any proposed changes are subject to review and approval by Ecology.
- c) The Applicant shall prepare a stormwater pollution prevention plan (SWPPP) for long-term operation and maintenance of this project. If a SWPPP already exists for this project, it should be amended as appropriate to include any activities that are not currently covered.

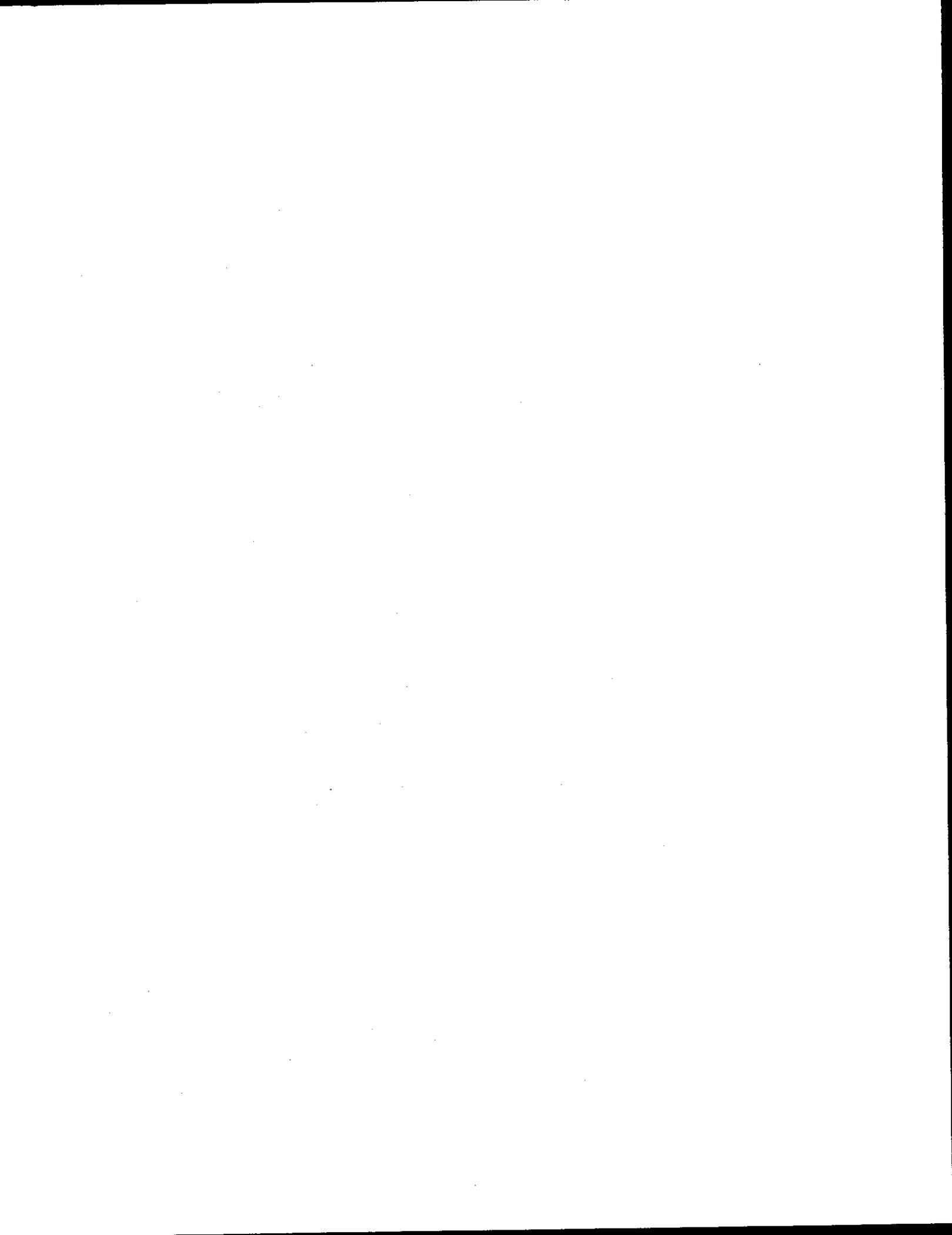
B. Temporary Modification of Water Quality Standards:

- 1) Project construction, operation, and maintenance shall be done in compliance with WAC 173-201A. **This certification does not authorize a modification of standards above those established in WAC 173-201A.**

C. Construction Conditions:

- 1) All construction debris shall be properly disposed of on land so that it cannot enter the waterway or cause water quality degradation to state waters.
- 2) All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
- 3) Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
- 4) At the completion of construction, hydroseeding may be done to stabilize slopes and soils until other required planting is completed. Hydroseed mix shall consist of native, non-invasive, or annual plant species only.
- 5) Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES or state waste discharge permit.

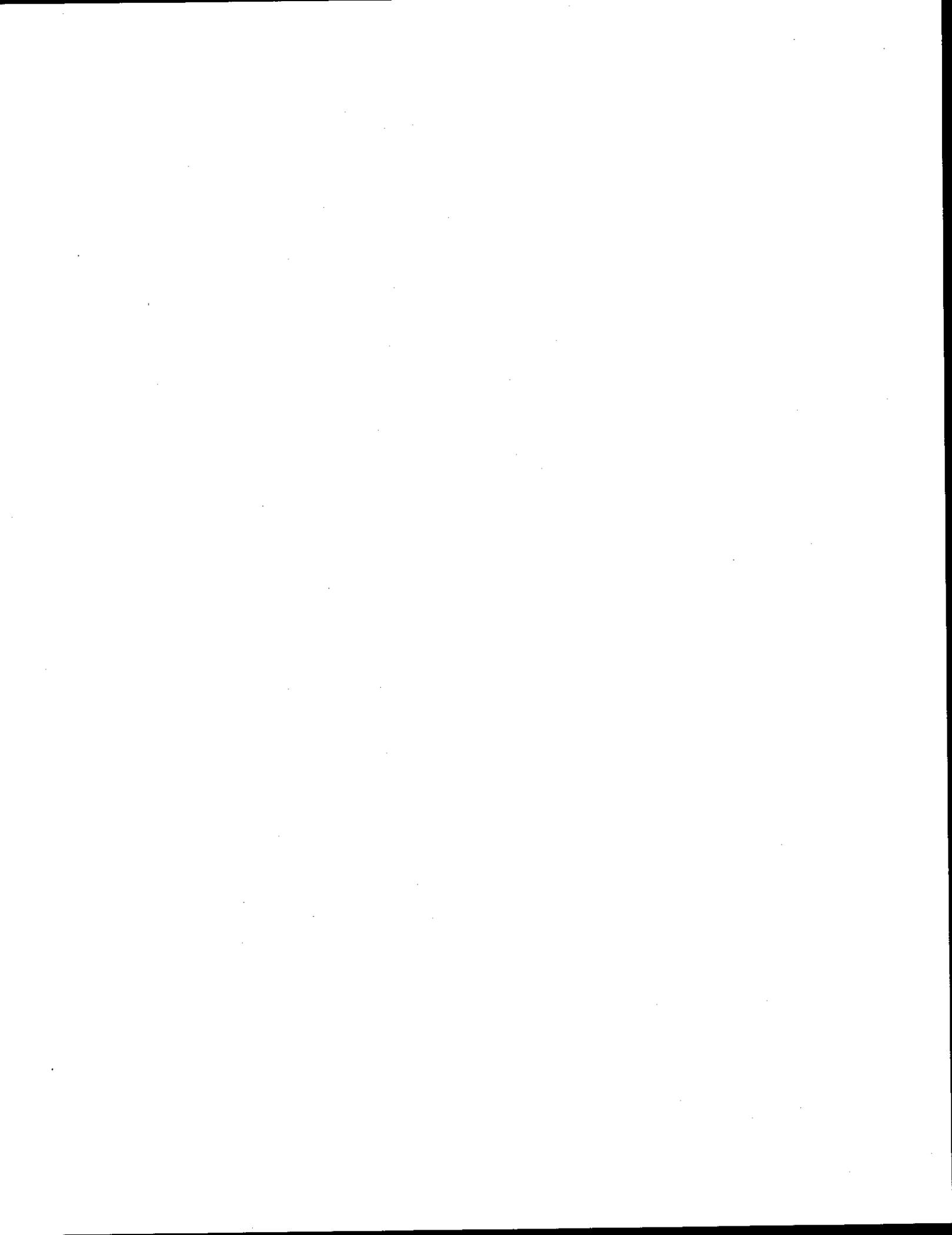
D. Emergency/Contingency Measures:



- 1) 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
 - a) Cease operations.
 - b) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - 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 material and used cleanup materials.
- 2) 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 Southwest Regional Spill Response Office at (360) 407-6300.
- 3) 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.
- 4) Toxic conditions resulting in distressed or dying fish (including dissolved oxygen levels below 5.0 mg/L) are not allowed. If these conditions exist, construction shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
- 5) Construction monitoring: During and immediately after project construction, the Applicant or contractor shall visibly monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

General Conditions:

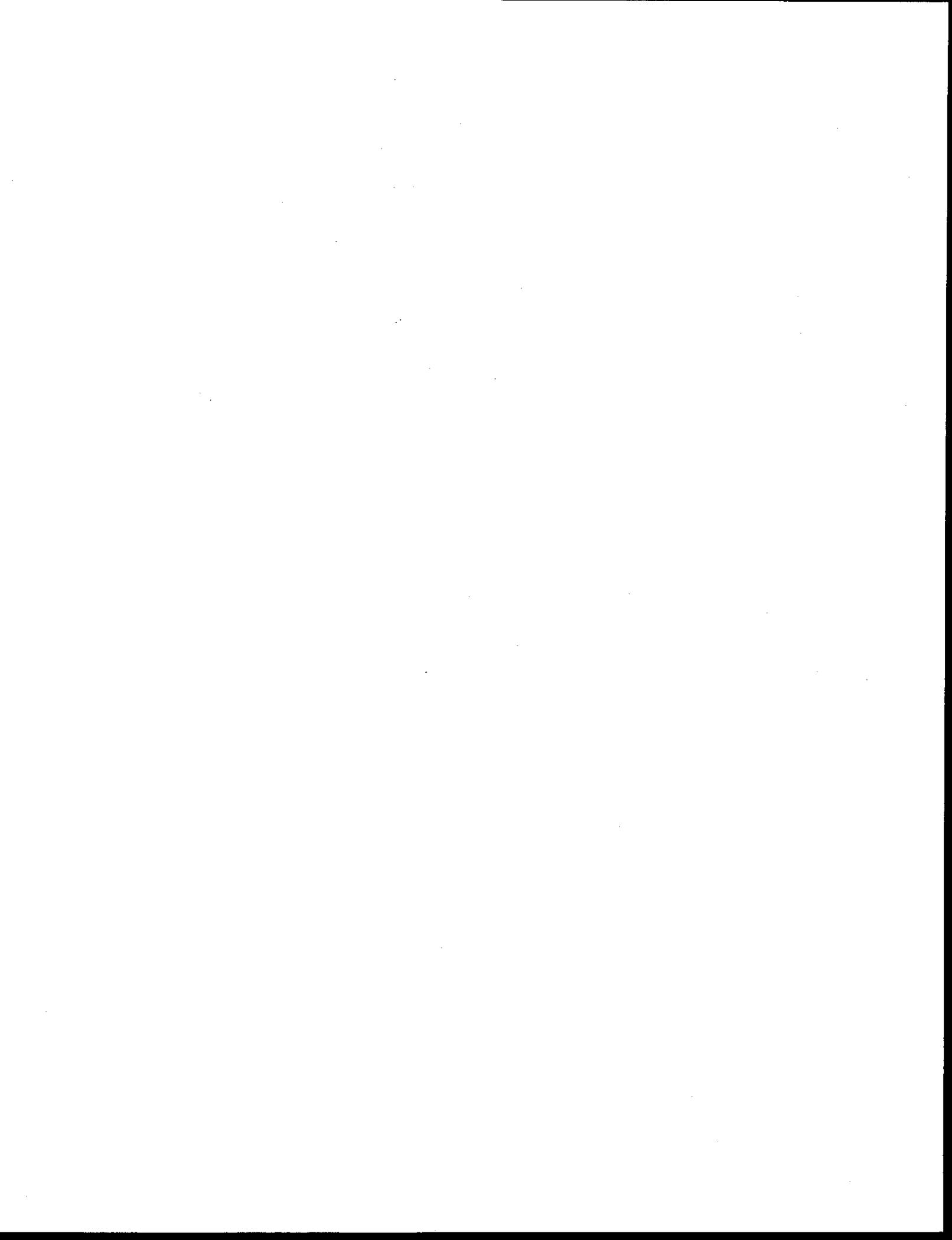
- 1) This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
- 2) This certification does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
- 3) The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
- 4) The Applicant 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 and/or



discharge for which the federal license or permit is being sought.

- 4) The Applicant 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.
- 5) The Applicant 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.
- 6) 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 Applicant, and state agency personnel.
- 7) The Applicant shall ensure that all appropriate supervisors and contractors at the project site and mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each supervisor 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 7 days before construction begins at the project or mitigation sites. The Applicant shall also provide a similar signed statement to Ecology from each new supervisor or contractor hired or assigned after the project begins within 30 days of hiring.
- 8) Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
- 9) 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.
- 10) 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 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, 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 _____ at Lacey, Washington



Water Quality Certification #00-2-00472
December 22, 2000
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Gale Blomstrom, Section Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

