



**Certification of Consistency with the
Washington State Coastal Zone Management Program
for Activities Requiring a Federal License or Permit**

Washington State Department of Ecology

Email: fedconsistency@ecy.wa.gov

AGENCY USE ONLY

Date Received: 8/29/2023

Aquatics ID#: 142978

County: King

Team: HQ

Why is this Certification of Consistency Required?

The federal Coastal Zone Management Act (CZMA) authorizes states to review federal actions for consistency with the federally approved enforceable policies of state coastal management programs. The issuance of federal licenses and permits are federal actions that are subject to state review where those licenses and permits have been listed by the state as subject to review. Listed federal license or permit activities under Washington's Coastal Zone Management (CZM) Program are found on the Office for Coastal Management's [website](#). Applicants for listed authorizations in the State's coastal zone¹ must show that the proposed activity is consistent with the [enforceable policies](#) found in four state laws and their implementing regulations (the Shoreline Management Act, Clean Air Act, Water Pollution Control Act, and Ocean Resources Management Act (ORMA)), and in the Marine Spatial Plan for Washington's Pacific Coast (MSP). Examples of federal permits and licenses include U.S. Army Corps of Engineers (Corps) permits, Federal Energy Regulatory Commission (FERC) licenses, and U.S. Coast Guard bridge permits. A federal agency cannot issue a permit or license unless the Department of Ecology (Ecology) concurs that the project is consistent with Washington's enforceable policies. If the state issues a CZMA objection to a proposed federal license or permit activity, the federal agency cannot authorize the activity unless the state removes its objection or the U.S. Secretary of Commerce overrides the state objection in an appeal filed by the applicant.

The requirements for CZMA federal consistency reviews are found at 16 U.S.C. § 1456 (Section 307 of the CZMA) and the Federal Consistency regulations at 15 CFR part 930. The specific rules for the review of federal licenses and permits are found at 15 CFR part 930, subpart D. Ecology has prepared this form to help applicants demonstrate consistency with the State's CZM Program.

Next Steps:

For projects that need a Corps permit, please submit the form and supporting materials as described below to the Corps at NWS-PermitApp@usace.army.mil and it will be forwarded to Ecology for review. For projects that need other types of federal permits or licenses, please submit the form and supporting materials to fedconsistency@ecy.wa.gov.

Along with this form, please submit the following:

- A copy of the application for federal permit or license,
- Project location map,
- Site plans, and
- Supporting documentation as identified below under the enforceable policies.

Note: For projects on Washington's Pacific Coast, if ORMA and/or the MSP apply, an ORMA analysis or MSP Effects Evaluation must be included with your consistency certification; this may take considerable time to prepare.

¹ The Coastal Zone includes all areas of the following counties: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom.

Ecology will then:

- Review your Certification of Consistency to make a Federal Consistency decision for the project.
- Publish a public notice (or this may be published by the applicable federal agency).
- Contact you if further information is needed.

Ecology has six months from receipt of the consistency certification package to issue a decision (concurrence, concurrence with conditions, or objection). If Ecology does not act within six months, the activity is presumed to be consistent with the CZM program. If additional time is needed, Ecology may contact you regarding a 'stay' of this date.

Note: Ecology cannot issue a concurrence until all of the applicable permits/authorizations are received.

For More Information:

Ecology's Federal Consistency Webpage: [Coastal zone management federal consistency review](#)

I. Identify the Applicable Federal License or Permit

Federal Agency: <input checked="" type="checkbox"/> Corps <input type="checkbox"/> USCG <input type="checkbox"/> FERC <input type="checkbox"/> Other	Federal Permit/License Number (if known): NWS-2022-833 Federal Agency Point of Contact: Leeann Simmons
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II. Project Information

Project Name: Luther Burbank Waterfront Improvements		
Project Location (Note: Please attach a project location map and site plans with this form)		
Address: 2040 84th Avenue SE (If there is no address, provide other location information)	City: Mercer Island	County: King
Land ownership (check all that apply): <input checked="" type="checkbox"/> Private <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Tribal <input type="checkbox"/> Other:		
Waterbody that the project is in or has the potential to affect: Lake Washington		WRIA Number: 8
Detailed description of the proposed activity, its associated facilities, and effects to coastal resources and uses: The City of Mercer Island (City) is proposing the Luther Burbank Park Waterfront Improvements Project (Project) to repair, maintain, and enhance the waterfront program at Luther Burbank Park in the City of Mercer Island, Washington. Attachment 1, Figures 3 and 4, provide an overview of the Project and a demolition plan, respectively. The Project includes repairing and replacing portions of the existing dock structures, including repairs to the north dock structure, and replacing and reconfiguring the central and south dock structures to accommodate waterfront programming and current and projected watercraft uses. Other waterside improvements include installing a grated overwater public platform in the nearshore to improve access to the water along the existing plaza area. The Project also includes upgrades to the waterfront plaza and Boiler Building. The Project is a replacement project, so will have short-term construction impacts, but over the long-term is anticipated to have no net loss to ecological functions.		
Has tribal consultation been initiated?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has local government review or consultation been initiated?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

III. Enforceable Policies

State Shoreline Management Act (SMA)	
Is the proposed project within shoreline jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If unknown, check with the local jurisdiction. If no, then skip the remainder of this section.)	
Does the proposed project require a shoreline permit/authorization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If no, then skip the remainder of this section)	

Name of local jurisdiction(s) processing shoreline permit/authorization:	
Applied for or received permit/authorization: <input type="checkbox"/> Shoreline permit exemption <input checked="" type="checkbox"/> Shoreline Substantial Development Permit (SDP) <input checked="" type="checkbox"/> Shoreline Conditional Use Permit (CUP) <input checked="" type="checkbox"/> Shoreline Variance	SHL22-023 Local jurisdiction permit number(s): SHL22-024 Local jurisdiction issuance date(s): SHL22-025 Ecology permit filing number: tbd Ecology date of filing (SDP/CUP/Variance): tbd
State Clean Air Act (CAA)	
Did you contact the local air agency to determine whether a CAA permit is required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does the proposed project require a CAA permit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If unknown, check with the local clean air agency . If no, then skip the remainder of this section.)	
Name of local air authority processing CAA permit:	
<input type="checkbox"/> Applied for air permit - Date submitted: (please attach copy of application package)	Notice of Construction (NOC) number:
<input type="checkbox"/> Received air permit - Date issued:	Permit number:
State Water Pollution Control Act (WPCA)	
Section 401 Water Quality Certification (WQC)	
Does the proposed project require a WQC? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If unknown, see Ecology's 401 web page . If no, then skip the remainder of this section.)	
<input checked="" type="checkbox"/> Applied for WQC - Date submitted:	<input checked="" type="checkbox"/> Ecology <input type="checkbox"/> Tribe: <input type="checkbox"/> U.S. Environmental Protection Agency (EPA)
<input type="checkbox"/> Received WQC - Date issued:	WQC number: 141729
Section 402 National Pollutant Discharge Elimination System (NPDES) Permit	
Does the project proposal require an NPDES permit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If unknown, see Ecology's Stormwater Permit web page . If no, then skip the remainder of this section.)	
Applied for NPDES permit: <input type="checkbox"/> General Permit: <input type="checkbox"/> Construction Stormwater General Permit <input type="checkbox"/> Industrial Stormwater General Permit <input type="checkbox"/> Other: <input type="checkbox"/> Individual Permit:	<input type="checkbox"/> Ecology <input type="checkbox"/> EPA Notice of Intent (NOI) number: Date submitted:
<input type="checkbox"/> Received NPDES permit coverage	Permit number: Date issued:
Ocean Resources Management Act (ORMA)	
Does ORMA apply? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If unknown, see ORMA Guidance . If no, then skip the remainder of this section.)	
If ORMA applies, then attach an analysis demonstrating consistency with ORMA's enforceable policies as suggested in the ORMA Guidance. <input type="checkbox"/> Analysis is attached <u>Note:</u> This analysis must be attached to the Consistency Certification unless the MSP applies.	
Marine Spatial Plan (MSP) for Washington's Pacific Coast	
Does ORMA apply? (see above) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If no, then MSP does not apply; skip the remainder of this section)	
Does MSP apply? (see) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If unknown, see MSP Guidance . If no, then skip the remainder of this section.)	
If MSP applies, has an MSP Effects Evaluation as described in the MSP Guidance been completed? <input type="checkbox"/> MSP Effects Evaluation is attached <u>Note:</u> If an MSP Effects Evaluation has not been completed, it must be submitted early in the review process in order for the state to concur with the proposed action. Failure to do so may result in the issuance of an objection to the project for lack of information. The MSP Effects Evaluation may be submitted in lieu of the ORMA analysis.	

IV. Applicant & Agent Information

Applicant Name: Josh Jensen			
Organization: Anchor QEA			
Mailing Address: 1201 Third Avenue, Ste 2600	City: Seattle	State: WA	Zip: 98117
Phone #: 206-903-3374	E-Mail: jjensen@anchorqea.com		
Agent Name: Paul West			
Organization: City of Mercer Island Public Works			
Mailing Address: 9611 SE 36th Street	City: Mercer Island	State: WA	Zip: 98040
Phone #: 206-275-7833	E-Mail: Paul.West@mercergov.org		

V. Certification Statement:

By digitally signing below, I certify that the proposed activity complies with the enforceable policies of Washington's approved management program and will be conducted in a manner consistent with such program.

Applicant Signature

Date 8/28/2023

Paul D. West

Print Name Paul D West