



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

March 31, 2021

Spader Bay Home Owners Association
Attn: Brian Hunt
PO Box 459
Chelan, WA 98816

SENT VIA ELECTRONIC MAIL

RE: Water Quality Certification Order No. 19812 for Corps Reference No. NWS-2019-362, Spader Bay HOA Mooring Buoys, Beach Repair, and Maintenance, on Lake Chelan located in Chelan County, Washington.

Dear Brian Hunt:

On April 13, 2020, Spader Bay Home Owners Association (HOA) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Spader Bay HOA Mooring Buoys, Beach Repair, and Maintenance, on Lake Chelan located in Chelan County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (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.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Lori White at (509) 575-2616. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary D. Graff".

Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

Enclosure

cc: Jenae Churchill, Corps of Engineers
ECY RE FEDPERMITS
Loree' Randall – HQ, SEA
Anne Hessburg, Grette Associates LLC

IN THE MATTER OF GRANTING A)	ORDER # 19812
WATER QUALITY)	Corps Reference No. NWS-2019-362
CERTIFICATION TO)	Spader Bay HOA Mooring Buoys, Beach Repair,
Brian Hunt)	and Maintenance, on Lake Chelan located in
pursuant to 33 U.S.C. 1341 (FWPCA)	Chelan County, Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Spader Bay Home Owners Association
 Attn: Brian Hunt
 P.O. Box 459
 Chelan, WA 98816

On April 13, 2020, the Department of Ecology (Ecology) received a request from Spader Bay Home Owners Association (HOA) for a Section 401 Water Quality Certification (WQC) for the Spader Bay HOA Mooring Buoys, Beach Repair, and Maintenance project. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on April 14, 2020.

The proposed project entails the repair and maintenance of approximately 35 mooring buoys by replacing the existing rusted chains with ½ inch galvanized steel chains of the same length, and the annual removal (for up to 10 years) and redistribution of approximately 74-125 cubic yards of sand from a 4,000 square foot area under the existing pier. Sand will be redistributed to a 1650 square foot area along the shoreline, approximately 70 to 150 feet northwest of the removal area. Materials are to be placed both above and below the ordinary high water (OHWM). All work is to be conducted in the dry, when lake levels are drawn down. Work is to be conducted using hand tools and wheelbarrows. The project site(s) are located in Section 11, Township 27, Range 22, within Water Resource Inventory Area (WRIA) No. 47, Lake Chelan Watershed.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed the WQC request 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.

4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080

WATER QUALITY CERTIFICATION CONDITIONS

With this Water Quality Certification (WQC) and 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 comply with 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, this WQC is granted to the Spader Bay HOA (Applicant) subject to the conditions within this Order.

Issuance of this WQC for this proposal does not authorize Spader Bay HOA to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this WQC absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term "Applicant" shall mean the Spader Bay HOA and its agents, assignees, and contractors.
2. Central Regional Office, Attn: Lori White, Federal Permit Manager, 1250 W Alder Street Union Gap, WA 98903 or via e-mail to fednotification@ecy.wa.gov and cc to lori.white@ecy.wa.gov. The submittals shall be identified with Order 19812 and include the Applicant name, project name, project contact, and the contact phone number.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on April 13, 2020.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.

6. This Order is not effective until the U.S. Army Corps of Engineers (Corps) issues a permit for this project.
7. The Applicant shall send (per condition A.2 above) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
8. 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.
9. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
10. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this Order and any permits, plans, documents, and approvals referenced in the Order.
11. 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.
12. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.
13. Conditions in this Order apply to all planned phases of the construction for this project.

B. Notification Requirements

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to

lori.white@ecy.wa.gov. Notifications shall be identified with Order No. 19812 and include the Applicant name, project name, project location, project contact and the contact phone number.

- a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this Order.
 - b. At least ten (10) days prior to all pre-construction meetings
 - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - d. Within seven (7) days of completing in-water work activities for each in-water work window.
 - e. At least seven (7) days within each sediment removal cycle.
2. In addition to the phone or e-mail notification required under B.1.a. above, the Applicant shall 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.

C. Timing

1. This Order shall remain in effect for a period of five (5) years from the date of issuance of this certification. Continuing this project beyond the five-year term of this Order will require the Applicant to obtain review and written approval by Ecology to extend the project for an additional five (5) years. The total term of this Order shall not exceed a total of ten (10) years total.

In-Water Work Window Timing

1. Work below the ordinary high water line must occur in the dry, when the lake is at a low water period, of any year.
2. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Construction

General Conditions

1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control

Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.

2. The Applicant shall obtain and comply with the conditions of the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
3. Prior to any construction or excavation, an archaeological/cultural resource survey must be conducted. Survey methodology is to be reviewed and approved of by the Confederated Tribes of the Colville Reservation. Per survey results, additional archaeological testing and mitigation may be required. In addition, there is the potential for the entire project site or portions of it, and or methods to be abandoned.

Equipment & Maintenance

4. All hand tools and manual equipment used for this project shall be free of external debris. Accumulation of soils or debris shall be removed from all equipment prior to its use around waters of the state, including wetlands.
5. All dredged/removed sand is to be redistributed to the location provided within the JARPA.

Maintenance Dredging

6. If the maintenance dredging will not be conducted per the approved *plan*, the Applicant shall submit a revised plan 30 days prior to the maintenance dredging event.
7. Dredging of 125 cubic yards is allowed for each maintenance dredge.
8. Dredging shall be confined to the existing footprint, except as modified by this Order.

E. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provision of this Order, conditions causing distressed or dying fish, discharges of oil, fuel, or chemicals into state waters or onto land

with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall take the following actions:

- a. Cease operations at the location of the non-compliance.
 - 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.
 - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
3. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

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 both 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 Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903
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CONTACT INFORMATION

Please direct all questions about this Order to:

Lori White
Department of Ecology
Central Regional Office
1250 W Alder Street
Union Gap, WA 98903

(509) 575-2616
lori.white@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>

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- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 31st day of March, 2021 at the Department of Ecology, Union Gap, Washington

A handwritten signature in cursive script, appearing to read "Gary D. Graff", is written over a horizontal line.

Gary Graff, PWS

Regional Section Manager

Shorelands and Environmental Assistance Program