

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

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July 29, 2021

Island County Diking District No. 1 ATTN: Thomas Kraft PO Box 74 Freeland, WA 98235

RE: Water Quality Certification Order No. 20354 for Corps Reference No. NWS-2019-876, Sunlight Beach Erosion and Restoration Project, Clinton, Island County, Washington

Dear Thomas Kraft:

On July 31, 2020, Island County Diking District No. 1 submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Sunlight Beach Erosion and Restoration project, located in Clinton, Island 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. <u>This certification is subject to the conditions contained in the enclosed Order</u>.

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, please contact Rebekah Padgett at (425) 365-6571. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Joe Burcar, Section Manager Shorelands and Environmental Assistance Program

Sent by electronic mail: <u>islandcountydd1@gmail.com</u>

Enclosure

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Jordan Bunch, US Army Corps of Engineers e-cc: Margaret Clancy, Environmental Science Associates Hannah Snow, Environmental Science Associates Paul Marczin, WA Department of Fish and Wildlife Solenne Walker, WA Department of Natural Resources Kira Swanson, WA Parks and Recreation Todd Tatum, WA Parks and Recreation Kerry Lyst, Stillaguamish Tribe of Indians Meredith Penny, Island County Planning & Community Development Karen Hanseth Leland Vivian Stembridge, Sunlight Shores Country Club, Inc. Vivian Stembridge Edward Sheets Jill McGrath & Richard Gelb Lance Porter Alan Rosen George T. F. Henny, Trustees of the David Christian Henny Testamentary Trust-Exempt, and the David Christian Henny Testamentary Trust-Nonexempt Dave Menzimer, Olympic Marine View Owner's Association Dick Clotfelter, Island County Diking District #1 Neil Molstad, Ecology Railin Santiago, Ecology George Kaminsky, Ecology Grant Yang, Ecology Amy Jankowiak, Ecology Loree' Randall, Ecology ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)
WATER QUALITY)
CERTIFICATION TO)
Island County Diking District No. 1)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

ORDER #20354 Corps Reference No. NWS-2019-876 Sunlight Beach Erosion and Restoration Project, Useless Bay, Clinton, Island County, Washington.

TO: Island County Diking District No. 1 ATTN: Thomas Kraft PO Box 74 Freeland, WA 98235

On July 31, 2020, the Department of Ecology (Ecology) received a request from Island County Diking District No. 1 for a Section 401 Water Quality Certification (WQC) for the Sunlight Beach Erosion and Restoration project. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on August 20, 2020. On September 1, 2020, the Corps authorized components of the proposed activity through an emergency authorization; completed work is noted within the project description below.

The proposed project entails several actions to address erosion of Sunlight Beach and cross-shore sediment transport processes in the vicinity of Sunlight Beach and to re-establish a recreational beach. Specific actions include:

- Sill Repair: Repair 16, 65-linear-foot existing timber sand retention structures (sills) • waterward of mean high water line (MHWL) in order to facilitate trapping of sediment and widen the beach over time. Existing wooden piles would be removed and replaced with 6- to 10-inch-diameter untreated wood piles. Each sill would be composed of eight or nine piles spaced 8 feet apart and driven 6-10 feet deep, with untreated wooden boards attached to the piles. Progressive installation of wooden boards cannot extend in excess of 2 feet above updrift elevation at the time of installation and to not exceed an elevation of +11-feet (NAVD 88). Note: 11 sills were repaired in Winter 2020, with 5 repairs remaining.
- Sandbag Removal: Remove 18,000 cubic yards of super sack sandbags waterward of the high tide line (HTL) from an area of 18,000 square feet that were placed in 2019 and 2020 under emergency authorization from the Corps. The sandbags would be opened and material allowed to deposit onto the beach seaward of HTL. Note: All but 40 super sacks were removed in Winter 2020.
- Dike Repair Type A: Repair 80 linear feet of an existing dike structure waterward of HTL by removing and replacing 80 cubic yards of fallen and unstable armoring. The dike would remain in the same configuration and location and there would be no change to the height or seaward extent of the dike. The repairs would occur at three locations along the dike. Individual fallen stones will be removed from waterward of HTL with the majority

of repair work occurring landward of HTL. **Note:** This component was completed in Winter 2020.

- <u>Dike Repair Type B</u>: Repair 100 linear feet of an existing dike structure waterward of HTL using 160 cubic yards of material over an area of 1,500 square feet. Approximately 85 cubic yards of stone would be placed waterward of HTL and 75 cubic yards landward of HTL. Riprap material would be placed at the toe of the dike to decrease the existing 0.5:1 slope of the dike to 1.5:1. **Note:** This component was completed in Winter 2020.
- <u>Sand and Gravel Lag Nourishment</u>: Place 1,000 cubic yards of gravel and 850 cubic yards of sand waterward of HTL over an area of 22,800 square feet to dissipate wave energy in front of the dike and minimize wave reflection. The placement would span 500 linear feet along the toe of the existing dike with a width of 40-60 feet and a gravel thickness ranging from 1 to 3 feet. A 1-foot-thick layer of sand would be placed on top of the entire 500 linear feet of gravel. Up to 260 cubic yards of material would be excavated waterward of HTL to place the gravel mat. **Note:** 680 cubic yards of this material was placed in Winter 2020.
- <u>Rock Groin Shortening</u>: Remove 70 linear feet from the waterward end of an existing rock groin located adjacent to the existing Henny Spit mouth in order to facilitate sediment movement toward Sunlight Beach. Approximately 400 cubic yards of rock over an area of 1,700 square feet would be removed and placed in the uplands on the dike,
- <u>Mouth Breach</u>: Dredge 760 cubic yards over an area of up to 8,420 square feet waterward of HTL in order to breach the southern end of Henny Spit and create a new inlet. The breach would include 1,700 cubic yards of cut landward of HTL for a total of 2,460 cubic yards. The length of the breach would be 310 linear feet cut perpendicularly through the existing sand spit. The breach would have a trapezoidal cross-section, with a bottom width of 20 feet and top width of 66 feet. Excavated material will be utilized for closure of the existing outlet, with any excess material used for nourishment placement.
- <u>Mouth Closure</u>: Place 650 cubic yards of material from the Henny Spit breach waterward of HTL over an area of 4,800 square feet at the existing outlet on the northern end of Henny Spit to close it off, merge the spit onto Sunlight Beach, and facilitate even distribution of sediment across Sunlight Beach to raise beach elevations. Approximately 50 cubic yards of fill would be placed above HTL. A total of 30 linear feet of channel would be filled with a depth of 4-6 feet and width of 115 feet.

The project site is located between 2470 Sunlight Beach Road and 2650 Sunlight Beach Road, Useless Bay, in Clinton, Island County, Section 19, Township 29 N., Range 3 E., within Water Resource Inventory Area (WRIA) 6.

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;
- 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; and,
- 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 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 Island County Diking District No. 1 (Applicant) subject to the conditions within this Order.

Issuance of the WQC for this proposal does not authorize Island County Diking District No. 1 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 Island County Diking District No. 1 and its agents, assignees, and contractors.
- 2. All submittals required by this Order shall be sent to Ecology via e-mail to <u>fednotification@ecy.wa.gov</u> and cc: to Rebekah.Padgett@ecy.wa.gov. The submittals shall be identified with Order #20354 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 following documents:
 - a. Joint Aquatic Resource Permit Application (JARPA) received by Ecology on July 31, 2020;

- E-mail from Thomas Kraft, Island County Diking District #1 to Joe Burcar, Ecology, RE: Initial questions on Diking District 1 submittal, dated August 21, 2020;
- c. E-mail from Jordan Bunch, U.S. Army Corps of Engineers, RE: Request for Comments on Emergency Notification, RE: NWS-2019-0876-, Clinton, WA, Island County, dated August 31, 2020;
- d. Modeling Figures, Spit Breach Plan B, received January 28, 2021;
- e. Proposed Breach Site B figure, received January 28, 2021;
- f. Revised JARPA Figures, Sheets 1 of 12 to 12 of 12, dated July 2021, received July 22, 2021 at 7:47pm; and,
- g. *Sunlight Beach Project Description Table, Revision 2*, prepared by Environmental Science Associates, received July 22, 2021 at 9:18pm.
- 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. The Applicant shall obtain Ecology review and approval before undertaking any mitigation and/or restoration activities for the proposed project, not authorized through this Order, that have the potential to significantly and adversely affect water quality.
- 6. 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.
- 7. This Order is not effective until the Corps issues a permit for this project.
- 8. 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.
- 9. The Applicant shall keep copies of this Order 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.
- 10. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
- 11. 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.

- 12. 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.
- 13. 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 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 signatory 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.
- 14. 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.
- 15. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Notification Requirements

- The following notifications shall be made by e-mail to Ecology at <u>fednotification@ecy.wa.gov</u> and cc to <u>Rebekah.Padgett@ecy.wa.gov</u>. Notifications shall be identified with Order No. 20354 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 inwater work window.
 - d. Within seven (7) days of completing in-water work activities for each in-water work window.
 - e. Within seven (7) days of project completion.
- 2. In addition to the e-mail notification 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.

3. 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 mitigation are completed.

C. Timing

1. This Order will expire ten (10) years from the date of issuance of the Corps permit, unless otherwise approved by Ecology.

In-Water Work Window Timing

2. In-water work shall be conducted between July 15 and February 15 of any year, unless otherwise approved by Ecology

D. Monitoring and Adaptive Management Conditions:

- 1. The Applicant shall implement project monitoring and adaptive management for the project according to the *Island County Diking District No. 1, Monitoring and Adaptive Management Plan*, dated May 2021 (hereafter referred to as "Monitoring and Adaptive Management Plan").
- 2. The Applicant shall submit any changes to the Monitoring and Adaptive Management Plan, including long-term adaptive management actions, in writing to Ecology (see A2) for review and approval at least 30 days prior to implementing the change.
- 3. The Applicant shall submit monitoring reports annually, by December 31 of each year, to Ecology (see A2) documenting the following:
 - a. Any construction or intervention activities undertaken during the monitoring year,
 - b. Spring and fall survey data (aerial photography and physical elevations),
 - c. Any storm response information,
 - d. Monitoring efforts with basic analysis of annual condition, and
 - e. Relevant images (e.g., aerial surveys, photos) and maps.
- 4. Every five (5) years, the monitoring report shall include the following:
 - a. A comprehensive interpretation of site conditions during the previous five years;
 - b. Comparison of conditions to the baseline; and
 - c. Adaptive management actions, if any, proposed for the upcoming monitoring period.

E. Water Quality Criteria

1. This Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-210(1)(e)(i).

F. 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. No stockpiling or staging of materials shall occur at or below the Ordinary High Water Mark (OHWM) of any waterbody.
- 3. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
- 4. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
- 5. All equipment being used below the OHWM shall utilize biodegradable hydraulic fluid.
- 6. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area, including existing super sacks that are damaged or buried, 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 marine areas shall be removed from the project area.
- 7. <u>Clean Fill Criteria</u>: Applicant shall ensure that fill (sand, gravel, or other material) placed for the proposed project does not contain toxic materials in toxic amounts.
- 8. Project activities shall be conducted to minimize siltation of the beach area and bed.
- 9. All timber posts (piles) and planks shall be untreated wood.
- 10. In-water construction, shall occur in the dry when the work area is not inundated by tidal waters.

- 11. Areas of vegetation disturbance in the upland shall be reseeded after completion of construction.
- 12. If riparian vegetation is disturbed by construction activities, the Applicant shall submit a Planting Plan to Ecology per Condition A.2. The plan shall describe and show how impacts to vegetation will be mitigated, including detailed drawings depicting both impact area(s) and mitigation area(s) that will be revegetated with native plant species. Planting shall take place during the first dormant season (late fall through late winter) after project completion per the approved plan. Plantings shall be maintained for a minimum of three (3) years to ensure that at least 80 percent of the plantings survive. Failure to achieve the 80 percent survival in Year 3 will require additional measures to achieve requirements or rationale for modification of these requirements.

Equipment & Maintenance

- 13. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the 50-foot setback area.
- 14. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state.
- 15. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
- 16. 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.
- 17. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
- 18. Use of motorized equipment on the beach below the ordinary high water line shall be limited to the extent practicable to complete the work.

Sill Repair

19. Installation of timber planks shall be phased in order to accrete sand locally and allow sand migration westward. As the beach elevation raises, additional planks shall not be installed more than 2-feet above the existing updrift grade of the beach, up to an elevation that does not exceed +11-feet (NAVD 88).

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Henny Spit Mouth Breach and Closure

20. Boundaries of the access routes and the limits of the cut and fill slopes shall be clearly marked prior to commencing construction and shall not exceed those shown on the approved plans.

G. Emergency/Contingency Measures

- 1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
- 2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
- 3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
- 4. 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.
- 5. Work causing distressed or dying fish and discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters <u>is prohibited</u>. If such work, conditions, or discharges occur, the Applicant shall notify Ecology's Federal Permit Manager per condition B.1. and immediately 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 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 with 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.

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6. 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.

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 Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

ADDRESS AND LOCATION INFORMATION

CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett Department of Ecology Northwest Regional Office (425) 365-6571 Rebekah.Padgett@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
- 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 29th day of July, 2021 at the Department of Ecology, Shoreline, Washington

Joe Burcar, Section Manager Northwest Regional Office Shorelands and Environmental Assistance Program

Attachment A

Statement of Understanding Water Quality Certification Conditions

Sunlight Beach Erosion and Restoration Project

Water Quality Certification Order No. 20354

and

Corps Reference No. NWS-2019-876

As the Applicant for the Sunlight Beach Erosion and Restoration project, I have read and understand the conditions of Washington State Department of Ecology Order #20354, and any permits, plans, documents, and approvals referenced in the Order. I have and will continue to 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.

Signature	Date	
Title	Phone	
Company		