



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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November 23, 2021

Shelter Bay Company  
Attn: David Franklin  
1000 Shoshone DR  
La Conner, WA 98257

RE: Water Quality Certification Order No. **20869** for Corps Public Notice No. **NWS-2014-00684**, Shelter Bay Maintenance dredging, dredged material disposal located within Rosario Strait, near La Conner, Skagit County, Washington

Dear David Franklin,

On October 25, 2021, the Shelter Bay Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the disposal of dredge material at the Rosario Strait DMMP open water disposal site, Skagit County, Washington.

This project proposes to dispose of up to 55,851 CY of suitable dredged material at the Rosario Strait DMMP open water disposal site located in Rosario Strait, Skagit, County, Washington, within Water Resource Inventory Area (WRIA) 03 (Lower Skagit/Samish).

On behalf of the State of Washington, Ecology certifies that the work described in the 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.

If you have any questions, please contact Laura Inouye at (360) 515-8213. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

E-CC: Danette Guy, USACE  
Loree' Randall, Ecology  
ECYREFEDPERMITS@ecy.wa.gov

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 20869</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2014-00684</b>
<b>CERTIFICATION TO</b>	)	<i>Shelter Bay Maintenance dredging, dredged</i>
Shelter Bay Company	)	<i>material disposal located within Rosario Strait,</i>
pursuant to 33 U.S.C. 1341	)	<i>near La Conner, Skagit County, Washington</i>
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

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La Conner, WA 98257

On October 25, 2021, the Shelter Bay Company submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the disposal of dredge material at the Rosario Strait DMMP open water disposal site, Skagit County, Washington. The following required processing dates are referenced below:

- On September 13, 2021, the U.S. Army Corps of Engineers (Corps) issued a Public Notice for an erratum for dredging occurring under the Swinomish Tribal authority.
- On September 21, 2021, Ecology informed the Corps and applicant that the proposed disposal is within Ecology's jurisdiction, and the disposal would require an individual 401.
- On October 14, 2021, the Swinomish Indian Tribal Community Department of Environmental Protection issued a Section 401 Water Quality Certification for the dredging and dock reconfiguration.
- On October 25, 2021, Ecology issued a Public Notice for the disposal of the suitable dredged material at Rosario Strait.

This project proposes to dispose of up to 55,851 CY of suitable dredged material at the Rosario Strait DMMP open water disposal site located in Rosario Strait, Skagit, County, Washington, within Water Resource Inventory Area (WRIA) 03 (Lower Skagit/Samish).

With this Order, Ecology is granting the Shelter Bay Company's request for a Section 401 Water Quality Certification for the Shelter Bay dredge material disposal project, provided, that the activity is conducted in accordance with the Section 401 Water Quality Certification request, attachments Ecology received on October 25, 2021 and the special conditions below.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, the Shelter Bay Company must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Shelter Bay Company 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 Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

**Special Condition:**

1. All dredged material will be disposed of at the Rosario Strait DMMP open-water disposal site in Skagit County, Washington.
2. All debris larger than two (2) feet in any dimension shall be removed from the dredged sediment prior to disposal at the open water site. Similar-sized debris floating in the disposal area shall be removed.
3. Barges shall not dewater during transit to the disposal site.

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 Shelter Bay Company for the Shelter Bay dredged material disposal project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues an individual Department of the Army (DA) permit for this project. Order No. 20869 will remain valid for the duration of the associated DA permit. The Shelter Bay Company should send a copy of the final DA permit to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) within two weeks of receiving it.

**YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearings 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 all 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.

#### **Filing an appeal with the PCHB:**

**Mailing Address:**

Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

**Street Address:**

Pollution Control Hearings Board  
1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

#### **Serving a copy of the appeal on Ecology:**

**Mailing Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

**Street Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

#### **CONTACT INFORMATION**

Please direct all questions about this Order to:

Laura Inouye  
Department of Ecology  
PO Box 67600  
Olympia, WA 98504-7600  
Laura.Inouye@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**



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

November 23, 2021

Date