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OCT 28 2016

DEPARTMENT OF ECOLOGY  
EXECUTIVE

NOTICE OF APPEAL

POLLUTION CONTROL HEARING BOARD  
STATE OF WASHINGTON

AGO Rec'd via email 11-2-16

|  |   |
|--|---|
| Joe Scordino, Appellant                                | ] |
|  | ] |
| vs.  | ] |
|  | ] |
| Washington State Department of Ecology,<br>Respondents | ] |
| _____  | ] |

PCHB NO.  
NOTICE OF APPEAL

Appeals Processing Desk

Cc:  Raw/Rec - Cost Recovery

Becky Maiden - ATG

Orig:  ATG Docket Clerk

Kevin Fitzpatrick WQ/NWRO

Initial: JSB 11/2

cc: Jeanne Tran  
WQ/NWRO

1. Appellant and affiliation  
 Joe Scordino  
 681 13<sup>th</sup> Way, SW  
 Edmonds, WA 98020  
 425-319-8386  
[joe.scordino@yahoo.com](mailto:joe.scordino@yahoo.com)

Appellant is a member of the 'Save Our Marsh' group of concerned citizens of Edmonds.

2. Name of the agency: Washington State Department of Ecology

3. Name of permittee: Chevron Environmental Management Company

4. Decision under Appeal: The Appellant is appealing the issuance of National Pollutant Elimination System Waste Discharge (NPDES) Permit No. WA0991007. A copy of the NPDES permit is attached.

5. Short and Plain Statement Showing Grounds for Appeal: The NPDES permit issued by the Department of Ecology did not take into account the fact that water from the cleanup operation that is discharged into Willow Creek will flow into the Edmonds Marsh during certain high tide periods. The potential impacts of this discharge on an already contaminated Marsh are not addressed or mitigated in the permit conditions.

6. The appeal is based upon the following pertinent facts: The NPDES Permit #WA0991007 issued by the Dept. of Ecology to the Chevron Environmental Management Company did not take into account the potential adverse effects of the permitted action on the Edmonds Marsh. The permit does not

acknowledge that the permitted cleanup operation discharges into Willow Creek will flow into the Edmonds Marsh during higher tide levels.

During periods of higher tides (greater than six feet), Willow Creek does not flow into Puget Sound; the creek either backs up and flows into the Edmonds Marsh (when tide gate is functioning in fall/winter months) or is mixed with incoming saltwater from Puget Sound and flows into the Edmonds Marsh (when tide gate is secured open in spring/summer months). Thus, cleanup operation discharges into Willow Creek can affect the water and sediment quality in the Edmonds Marsh. Discharged contaminants may deposit in the sediments in the Edmonds Marsh and impact aquatic life.

Limited analysis of water samples from the Marsh by an accredited laboratory have detected Benzo[a]anthracene, Benzo[a]pyrene, Benzo[b]fluoranthene, Benzo[k]fluoranthene and other polycyclic aromatic hydrocarbons (PAH) compounds, total petroleum hydrocarbons (TPH) in the diesel, oil and volatile range, and heavy metals. The Edmonds Marsh is likely already contaminated by groundwater infusion and runoff from past Unocal operations. Thus, additional contaminant discharges, even if at low levels, will increase the contaminant load in the water and sediments in the Edmonds Marsh. It does not appear that the Dept. of Ecology has conducted a proper SEPA analysis to demonstrate that discharge of additional TPH and PAH compounds into the Edmonds Marsh will be inconsequential to the health of the Marsh and aquatic organisms and wildlife that utilize the Edmonds Marsh habitat.

The Dept. of Ecology was informed of their omission of the Edmonds Marsh potential impacts during the public comment period on the NPDES permit. Appellant's public comments to the Dept. of Ecology suggested an approach to avoiding potential impacts to the Marsh would be to restrict discharges to only those periods when the tide is below six feet to ensure that discharges will be flowing into Puget Sound to avoid contaminant flow into the Edmonds Marsh. The Dept. of Ecology subsequently responded to the concerns and suggestions on October 11, 2016 stating, "With respect to not discharging from the treatment system when tide levels are above six feet, Ecology has reevaluated this issue and will modify the NPDES permit to require discharge to occur only when the tide level is below six feet."

However, the draft text provided to the Appellant of a proposed permit modification did not fully reflect the six foot tide restriction. The draft modification stipulated, "Discharge will occur during outgoing tide from high high water to high low water, time given by NOAA, and during outgoing tide from low high water to low low water, time given by NOAA, as well as incoming tide from low low water until the water reaches 6 feet mean low low water datum." This draft language is not acceptable because it will allow discharge to occur "during outgoing tide from high high water to high low water" which means that discharge would be allowed at times (during tides above six feet) when the discharge would flow into the Edmonds Marsh and not into Puget Sound. The proposed modification is not consistent with the Dept. of Ecology's statement that they would "modify the NPDES permit to require discharge to occur only when the tide level is below six feet." When the Dept. of Ecology was asked to resolve the discrepancy in the proposed modification to the permit, they advised that the permittee would not agree to any revisions to the proposed permit modification language. Appellant was advised that if he and the 'Save Our Marsh' group did not agree to the proposed modification as written, then no modification would be made to the permit. Therefore, this appeal is filed because the NPDES permit issued by the Dept. of Ecology does not address or mitigate the potential impacts of water discharged from the cleanup operation into the Edmonds Marsh.

8. Appellant seeks the following relief: The Appellant requests that the Board order the Dept. of Ecology to modify NPDES Permit No. WA0991007 to restrict the discharge of water into Willow Creek to periods when the tide is below six feet to ensure that discharged water will flow into Puget Sound and not into the Edmonds Marsh.

9. Copies of this notice were mailed to the respondent on October 26, 2016.

Signature of the appellant: Joe Scordino  
Joe Scordino

Date: October 26, 2016

Issuance Date: September 28, 2016  
 Effective Date: November 1, 2016  
 Expiration Date: October 31, 2021

**National Pollutant Discharge Elimination System  
 Waste Discharge Permit No. WA0991007**

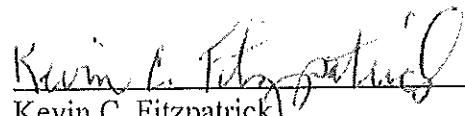
State of Washington  
 DEPARTMENT OF ECOLOGY  
 Northwest Regional Office  
 3190 160<sup>th</sup> Avenue SE  
 Bellevue, WA 98008-5452

In compliance with the provisions of  
 The State of Washington Water Pollution Control Law  
 Chapter 90.48 Revised Code of Washington  
 and  
 The Federal Water Pollution Control Act  
 (The Clean Water Act)  
 Title 33 United States Code, Section 1342 et seq.

**Former Unocal Edmonds Bulk Terminal  
 Chevron Environmental Management Company**  
 6001 Bollinger Canyon Road  
 San Ramon, CA 94583

is authorized to discharge in accordance with the Special and General Conditions that follow.

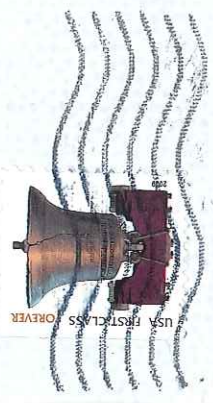
|   |  |
|---|--|
| <b><u>Facility Location:</u></b><br>11720 Unoco Road<br>Edmonds, WA 98020   | <b><u>Receiving Water:</u></b><br>Willow Creek, which ultimately discharges to Puget Sound                   |
| <b><u>Excavation Activities:</u></b><br>Collection tank, chitosan injection, sand filtration, and GAC beds.         | <b><u>Discharge Locations:</u></b><br>Outfall 002 :     Latitude:    47.80698°N<br>Longitude:   122.389484°W |
| <b><u>Dual-phase Extraction System:</u></b><br>Sediment settling tank, equalization tank, bag filter, and GAC beds. | <b><u>SIC Code:</u></b><br>4959, Groundwater Site Remediation Devices  |

  
 \_\_\_\_\_  
 Kevin C. Fitzpatrick  
 Water Quality Section Manager  
 Northwest Regional Office  
 Washington State Department of Ecology

Joe Scandino  
6813<sup>th</sup> Way  
Edmonds, WA 98020

SEATTLE WA 980

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DEPARTMENT OF ECOLOGY  
EXECUTIVE

Department of Ecology  
Appeals Processer

~~300 Desmond Drive SE~~

~~Acety, WA 98503~~

P.O. Box 47608

Olympia, WA 98504-7608

98504-7608



Attn: Appeals Processing Desk