



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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January 10, 2018

Captain E. A. Schrader, Commanding Officer
Department of the Navy
Naval Base Kitsap
120 South Dewey Street
Bremerton, WA 98314

**RE: Coastal Zone Consistency for Service Pier Extension Project, Silverdale,
Kitsap County, Washington**

Dear Captain Schrader:

On October 27, 2017, Department of the Navy, Naval Base Kitsap (Navy) submitted a Consistency Determination with the Washington State Coastal Zone Management Program (CZMP) for the Service Pier Extension project. On December 11, 2017, the Department of Ecology (Ecology) and the Navy agreed to a CZM extension until January 10, 2018.

The proposed project entails extension of the existing Service Pier with a 68-foot-wide by 520-foot-long addition and associated support facilities on the pier at two nearby upland sites. The project includes the following upland construction activities: construction staging and temporary laydown area, support buildings, roads, and parking lots.

The project is located at Naval Base Kitsap-Bangor, Silverdale, Kitsap County, Washington, Hood Canal, Sections 7 and 18, T. 25 N., R. 1W., WRIA 15.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the Navy's determination that the proposed work is consistent with Washington's CZMP, provided the following conditions are met:

1. The Federal Water Pollution Control Act (Clean Water Act [CWA]; *Chapter 90.48 RCW*): In the Navy's Coastal Consistency Determination, it does not specify any permits or certifications that may be required for this project (e.g., Construction Stormwater General Permit under Section 402 of the Clean Water Act, Section 404 Permit, or Section 401 Water Quality Certification). However, an email from Misha Vakoc, U.S. Environmental Protection Agency, to Rebekah Padgett, Ecology, RE: Naval Base Kitsap, Service Pier Extension, dated January 4, 2018, states the Navy will obtain a Construction Stormwater General Permit from the U.S. Environmental Protection Agency for this project. Based on a December 11, 2017, telephone conversation between Jason McKinney, NAVFAC NW, and Rebekah Padgett, Ecology, as well as an email exchange between Jason McKinney and Rebekah Padgett on the same date, we understand the

Navy will be submitting an application to the U.S. Army Corps of Engineers (Corps) for Section 10 and/or Section 404 permits soon. Therefore, Ecology is requiring the following:

- a. The Navy shall provide a copy of any application package for CWA permits to Ecology at the same time it is submitted to the federal permitting agency.
 - b. If any CWA permits or authorizations are required for this project, the Navy shall submit a copy of the permit or authorization to Ecology at least 30 days prior to start of any work in order to demonstrate compliance with the appropriate Ecology-approved Coastal Zone Management CWA enforceable policies.
2. The Shoreline Management Act (SMA; Chapter 90.58) and Shoreline Master Program (SMP) Guidelines are approved enforceable policies of Washington's CZMP.

The Navy noted it will conduct mitigation to compensate for impacts to aquatic resources, though it stated the mitigation is not within the scope of the Consistency Determination. In fact, the Navy Service Pier Extension Project is occurring within marine waters of Puget Sound, a shoreline of statewide significance, and the proposed actions meet the SMA definition of development; therefore, the project is subject to the enforceable policies of the SMA as part of Ecology's CZM consistency determination.

RCW 90.58.020 provides, in part:

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

The Act calls for the accommodation of "all reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation." The Act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water" (RCW [90.58.020](#)).

WAC 173-26-201(2)(c) also provides additional clarification of the protection of ecological functions of the shorelines:

(c) Protection of ecological functions of the shorelines. This chapter implements the act's policy on protection of shoreline natural resources through protection and restoration of ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.

As established in WAC 173-26-186(8), these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to plan for restoration of ecological functions where they have been impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

- Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.*
- Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.*

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety....

WAC 173-26-020(13) defines "Ecological functions" or "shoreline functions" [to mean] the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Within the Navy's Consistency Determination, reasonably foreseeable coastal effects are identified, including those to sediments, water quality, and biological resources within the coastal zone, including shorelines of the state. These impacts are further described in the Navy's Final Environmental Impact Statement (EIS) for the project, dated July 2016, and Draft Supplemental EIS, dated August 2017. The Navy appears to be proposing to utilize the Hood Canal Coordinating Council In-Lieu Fee (ILF) Program to provide compensatory mitigation for project impacts, though an ILF Use Plan has not been submitted to regulatory agencies for review and approval.

The Navy needs to demonstrate the project will not result in a net loss of ecological functions. In order to confirm the Navy meets the enforceable policies of the SMA (RCW 90.58.020) and SMP Guidelines (WAC 173-2-201(2)(c) and WAC 173-26-186(8)) for activities covered under this Consistency Determination, Ecology is requiring the following:

- a. The Navy shall submit to Ecology an ILF Use Plan and demonstration of credits purchased, or an updated Mitigation Plan, for review and concurrence at least 30

days prior to the start of in-water work. The Plan should include a complete description of impacts located in water or affecting coastal resources, mitigation sequencing for all related project components, and proposed compensatory mitigation that demonstrates how the Navy is consistent with the no net loss standard requirement of the SMA and SMP guidelines.

All submittals should reference this Consistency Determination and be sent to: 401/CZM Federal Permit Coordinator, Shorelands and Environmental Assistance Program, PO Box 47600, Lacey, WA 98504 or by email to fednotification@ecy.wa.gov.

Pursuant to 15 C.F.R SS 930.4, if the conditions above are not met, then all parties shall treat this conditional concurrence letter as an objection.

If you have any questions regarding Ecology’s consistency determination please contact Rebekah Padgett at (425) 649-7129.

YOUR RIGHT TO APPEAL

You have a right to appeal this consistency determination to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this consistency determination. 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 consistency determination:

- File your appeal and a copy of this consistency determination 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 consistency determination on Ecology in paper form - by mail or in person. (See addresses below.) Email 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	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Captain E.A. Schrader

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar". The signature is fluid and cursive, with the first name "Joe" being more prominent and the last name "Burcar" following in a similar style.

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

By certified mail: 9171 9690 0935 0163 8137 28

Cc: Jason McKinney, NAVFAC NW
Matthew Bennett, U.S. Army Corps of Engineers
Cyrilla Cook, Washington Department of Natural Resources
Chris Waldbillig, Washington Department of Fish and Wildlife
Brittany Gordon, Washington Department of Fish and Wildlife
Kathlene Barnhart, Kitsap County Department of Community Development
Steve Heacock, Kitsap County Department of Community Development
Misha Vakoc, U.S. Environmental Protection Agency

E-cc: Jason McKinney jason.d.mckinney@navy.mil
Kris Wall, NOAA OCRM kris.wall@noaa.gov
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Loree' Randall, Misty Blair, Terry Swanson, Evan Dobrowski, Ecology
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