



HILARY S. FRANZ
COMMISSIONER OF PUBLIC LANDS

OPEN WATER DISPOSAL SITE USE AUTHORIZATION NO. 20-5XXXXX

The STATE OF WASHINGTON, acting by and through the Department of Natural Resources (“State”), does hereby permit the *[GRANTEE NAME] –OR- [ORGANIZATION NAME], a [government agency] –OR- [Washington corporation] –OR- [partnership] –OR- [marital community] –OR- [single individual] –OR- []* (“Grantee”), to use certain lands owned by the state of Washington situated in *[INSERT COUNTY NAME]* County and designated as follows:

[FOR NON-DISPERSIVE, DGPS SITE –BELLINGHAM:]

That area encompassed within a 600 foot radius of a point which is 48° 42.82 North Latitude and 122° 33.11 West Longitude NAD’83, also known as the Bellingham Bay non-dispersive open water disposal site.

[FOR NON-DISPERSIVE, DGPS SITE – ANDERSON KETRON]

That area encompassed within a 600 foot radius of a point which is 47° 09.42 North Latitude and 122° 39.47 West Longitude NAD’83, also known as the Anderson/Ketron non-dispersive open water disposal site.

[FOR NON-DISPERSIVE, VTS SITES – COMMENCEMENT –OR- ELLIOTT –OR- PORT GARDNER:]

That area encompassed within a 600 foot radius of a point which is 47° 58.85 North Latitude and 122° 16.74 West Longitude NAD’83, also known as the Port Gardner non-dispersive VTS open water disposal site.

[FOR DISPERSIVE, VTS SITES – PORT ANGELES –OR- PORT TOWNSEND:]

That area of a point which is 48° 13.61 North Latitude and 122° 59.03 West Longitude (1983 North American Datum), also known as the Port Townsend Site dispersive open water disposal site. This site is a Coast Guard Puget Sound Vessel Traffic Services (PSVTS) controlled disposal site.

[FOR DISPERSIVE, ROSARIO STRAITS:]

That area of a point which is 48° 30.87’ North Latitude and 122° 43.56’ West Longitude (1983 North American Datum), also known as the Rosario Straits dispersive open water disposal site. This site is a Coast Guard Puget Sound Vessel Traffic Services (PSVTS) controlled disposal site.

[POINT CHEHALIS AND/OR SOUTH JETTY DISPOSAL SITE]

That area encompassed within a 2000 foot by 5000 foot rectangle located at 46° 54' 59.2" North Latitude and 124° 07' 26.5" West Longitude, also known as the Point Chehalis open water disposal site. The Point Chehalis open water disposal site is further defined by the following coordinates, which are the corners of three cells within the rectangle:

Point Chehalis Disposal Site (Coordinates in NAD83)

46° 55' 00.51" Latitude / 124° 08' 06.94" Longitude

46° 55' 04.49" Latitude / 124° 07' 50.66" Longitude

46° 55' 10.46" Latitude / 124° 07' 26.23" Longitude

46° 55' 17.09" Latitude / 124° 06' 59.10" Longitude

46° 54' 41.91" Latitude / 124° 07' 57.26" Longitude

46° 54' 45.90" Latitude / 124° 07' 40.98" Longitude

46° 54' 51.87" Latitude / 124° 07' 16.55" Longitude

46° 54' 58.50" Latitude / 124° 06' 49.42" Longitude

That area encompassed within a 800 foot by 3000 foot rectangle located at 46° 54' 30.2" North Latitude and 124° 09' 05.4" West Longitude, also known as the South Jetty open water disposal site. The South Jetty open water disposal site is further defined by the following coordinates:

South Jetty Disposal Site (Coordinates in NAD83)

46° 54' 34.82" Latitude / 124° 9' 30.67" Longitude

46° 54' 32.06" Latitude / 124° 8' 47.65" Longitude

46° 54' 26.96" Latitude / 124° 9' 31.74" Longitude

46° 54' 24.20" Latitude / 124° 8' 48.72" Longitude

SECTION 1 TERMS

1.01 Term. The term of this Use Authorization shall begin on *[INSERT DATE]* (the "Commencement Date"), and will expire at 11:59 pm on *[INSERT DATE]* (the "Termination Date"), or as otherwise specified herein. Whenever the phrase "termination of this Authorization" or "termination of the Authorization" is used in this Agreement, it shall refer to the ending, termination, cancellation, or expiration of the Use Authorization.

1.02 Extension. State may extend this Use Authorization upon whatever terms and conditions it may prescribe, or if providing an extension is in the public interest.

1.03 Breach. Grantee is in breach of this Use Authorization on the occurrence of any of the following:

- (a) Failure to pay fees or other expenses when due;
- (b) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
- (c) Failure to comply with any other provision of this Use Authorization.

SECTION 2 USE OF PREMISES

2.01 Permitted Use. Grantee shall have non-exclusive use of the premises only for the disposal of approved dredged material of a volume not to exceed *[INSERT AMOUNT IN WORDS]* *[INSERT AMOUNT NUMERICALLY ()]* cubic yards, as authorized by federal, state, and local regulatory agencies, and as specifically described in US Army Corps of Engineers Permit No. *[INSERT PERMIT NUMBER]* for the *[PROJECT NAME]*. This volume will be determined based on pre- and post- dredging site measurements using procedures established by State. If such procedures are not established by State, then volume will be based on the barge volume times the number of trips to the site.

2.02 Positioning. Grantee, its contractor, or operator shall fix and record exact position (latitude and longitude to the nearest one-thousandths of a minute) at the initiation and completion of discharge and shall concentrate the dumping of material at the center of the site, unless otherwise specified. The vessel's position shall be fixed by using a global positioning system (GPS), the Coast Guard Puget Sound Vessel Traffic Service (PSVTS), Radar, LORAN-C, SATNAV, or any other methods approved by State. Grantee, its contractor, or operator shall also record the reading on the vessel's fathometer at the time of discharge of the material. In areas where the Coast Guard PSVTS is available, Grantee, its contractor, or operator shall notify PSVTS ("Seattle Traffic" on VHF-FM Channel 14) prior to arriving at the disposal site and shall obtain US Coast Guard notification that the barge is on site at the time of dumping. If such notification is not received the material shall not be dumped. Position and fathometer recordings shall be made on Disposal Site Use Report forms (see Paragraph 4.02) provided by State.

2.03 Cleanup. All floatable debris coming from material disposed of at the site shall be collected and disposed of on land by Grantee. Grantee shall comply with all federal, state, and local laws, regulations, rules or ordinances in disposing of any such debris.

2.04 Other. From time-to-time, if it is determined that additional environmental conditions or benefits to the public are necessary, State reserves the right to amend this Use Authorization to include such conditions.

2.05 Disposal Method. All disposals of approved dredged materials shall be done in accordance with the specifications set forth in the Plan of Operations (Attachment A). In addition to any requirements described in the Plan of Operations, .

SECTION 3 PAYMENT

The payment of these fees to State is the essence of this Use Authorization, and the same shall be, and is, a condition precedent to the execution and continuance of this Use Authorization or any rights thereunder.

3.01 Minimum Fee. *[Grantee shall pay State a minimum, nonrefundable fee of \$2,000.00 . In addition, any disposal materials calculated at \$0.45 for each cubic yard dumped, in excess of the minimum fee, as provided in WAC 332-30-166(9), shall also be paid to State.]*

–OR–

[Grantee shall pay State a minimum, nonrefundable fee of \$300.00. In addition, any disposal materials calculated at \$0.10 for each cubic yard dumped, in excess of the minimum fee, as provided in WAC 332-30-166(9), shall also be paid to State.]

3.02 Payment. Failure to pay any required fees in addition to the minimum, nonrefundable fee shall be considered a breach of this Use Authorization under Paragraph 1.03. Payment is to be made to the Department of Natural Resources, Financial Management Division, PO Box 47041, Olympia, Washington 98504-7041, in the following manner:

[\$2,000.00 is due and payable at time of application. Additional payments, as provided by Paragraph 3.01; if any, due monthly not more than thirty (30) days after completion of each calendar month's dredging. Payments to be based on either actual amounts dumped or estimates based on barge volume.]

–OR–

[\$300.00 is due and payable at time of application. Additional payments, as provided by Paragraph 3.01; if any, due monthly not more than thirty (30) days after completion of each calendar month's dredging. Payments to be based on either actual amounts dumped or estimates based on barge volume.]

3.03 Records. Grantee shall keep an accurate record and account of all materials deposited at the above described site, including but not limited to those records required by Paragraph 2.02 of this Use Authorization on the Disposal Site Use Report (see Paragraph 4.02). State shall be allowed to inspect and audit books, contracts, and accounts of Grantee to determine whether State is being paid the full amount payable to State for the disposal of such material, and to ensure that the material discharged at the open water disposal site originated at an approved dredging site.

3.04 Application Fee Adjustments. The fees stated herein may be reviewed and adjusted annually or more often as needed in accordance with WAC 332-30-166(9).

SECTION 4 REQUIREMENTS

4.01 Notification. Grantee shall observe the completed Plan of Operation (Attachment A) submitted in writing to State at least five (5) working days in advance of first use. State must be notified of, and approve, any changes in the Plan of Operations at least twenty-four (24) hours before the changes are implemented. Notification by Grantee, and subsequent approval by State, may be made verbally. However, the verbal notification must be followed by submission of a revised Plan of Operation within five (5) working days. State shall be notified by telephone at (360) 902-1735, twenty-four (24) hours prior to each startup of dredging operations. Grantee also shall notify State by letter immediately upon completing use of the site.

4.02 Disposal Site Use Report. The tug captain shall fill out a Disposal Site Use Report

(provided by State) at the time of each disposal event. It is the responsibility of Grantee to ensure that the completed forms are forwarded to State at the completion of each week's disposal operations.

4.03 Volume Reporting. Within twenty (20) days of completing dredging operations for a calendar month, Grantee shall forward a summary of that month's disposal information to State. The summary shall include the volumes of material deposited at the site or volumes estimated from barge volume, and shall be provided on a Monthly Disposal Statement form provided by State.

4.04 Compliance. Grantee shall conform to any applicable law, regulation, permit, or license of any public authority affecting the disposal site premises and the use thereof, and shall correct, at Grantee's own expense, any failure of compliance created through Grantee's fault or by reason of Grantee's use. If any other permit or license condition changes during the term of this Use Authorization, those changed conditions shall apply to Grantee.

4.05 Permits. Procurement of the necessary permits and licenses, shall be solely the responsibility of Grantee.

4.06 Indemnity. Grantee shall indemnify and save harmless State, its employees, officers, officials, and agents from any and all liability; damages (including environmental damages, damages to land, aquatic life, and other natural resources); expenses; causes of action; suits; claims; costs; fees (including attorneys' fees and costs); penalties (civil or criminal); response; clean-up; and habitat restoration costs assessed, imposed or incurred as a result of the use, occupation or control of the site by Grantee's employees, agents, assigns, contractors, subcontractors, licensees, or invitees. This indemnity shall not extend to liability arising solely out of the willful or grossly negligent act of State or State's employees, officers, officials, or agents.

4.07 Damages. In addition to other remedies available to State under the law, State may charge Grantee a fee of \$5.00 per cubic yard for all dumping not in conformance with this Use Authorization, WAC 332-30-166 or other statute, rule, regulation or ordinance governing the activity, including, but not limited to, materials not approved for open water disposal, failure to give proper notification, dumping without valid permits and/or dumping outside the disposal zone.

4.08 Statutory Reference. Any reference to a statute or rule means that statute or rule as presently enacted or hereafter amended or superseded.

4.09 Remedies. In addition to any other remedies available, if any condition of this Use Authorization is violated under Paragraph 1.03, State may suspend or terminate this Use Authorization. Any action by a contractor, operator, or agent of Grantee may be imputed to Grantee.

4.10 Applicable Law and Venue. This Use Authorization is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in

connection with this Use Authorization is in the Superior Court for Thurston County, Washington.

4.11 Survival. Any obligations of Grantee not fully performed upon termination of this Use Authorization do not cease, but continue as obligations of the Grantee until fully performed.

Grantee expressly agrees to all covenants herein and binds itself for the payment hereinbefore specified.

GRANTEE NAME (UPPERCASE)

Dated: _____, 20__

By: _____ (UPPERCASE)

Title:

Address:

Phone:

STATE OF WASHINGTON

DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: KATRINA LASSITER

Title: Assistant Division Manager

Address: 1111 Washington St. SE

MS 470207

Olympia, WA 98504-7027