

CLARIFICATION PAPER:

SUMMARY OF SITE USE AUTHORIZATION REQUIREMENTS FOR WASHINGTON DEPARTMENT OF NATURAL RESOURCES' DREDGED MATERIAL MANAGEMENT PROGRAM OFFICE

Prepared by Peter Leon, Robert Brenner, Washington Department of Natural Resources, and Ted Benson, Washington Department of Ecology for the DMMP agencies.

INTRODUCTION

The Washington State Department of Natural Resources (DNR) is a partner in the interagency Dredged Material Management Program (DMMP). DNR participates in this interagency program through its own DMMP office. While all DMMP agencies participate in all components of dredged material management, DNR, as steward and manager of State Owned Aquatic Lands (SOAL), is directly responsible for managing the unconfined open-water dredged material disposal sites located in Puget Sound, Grays Harbor and Willapa Bay. Prior to using any of DNR's dredged material disposal sites, dredgers must apply for and receive permission from DNR. DNR manages the use of these sites through a Site Use Authorization (SUA), which is a legal agreement between DNR and the dredger. DNR's SUA document describes DNR's disposal requirements through both standard and project-specific language, however is DNR often required to clarify these requirements at the project pre-dredge meeting (Stirling, SMARM 2005) and through subsequent correspondence. By signing the SUA, the Grantee accepts all of DNR's site use conditions, including the damages DNR may collect from the dredger for violating these conditions.

PROBLEM STATEMENT

Significant confusion exists within the dredging community regarding DNR's SUA requirements. This confusion surrounds the SUA application process, dredged material disposal reporting requirements, disposal fees, dredging project status, and other requirements. At a minimum, this confusion introduces additional costs to both the SUA Grantee and the users of the DMMP in general. These costs result from a number of sources ranging from inefficiencies to damage fees. More significant consequences could include long-term environmental damages and disposal site closure.

CLARIFICATION

This clarification paper details existing DNR requirements that in the past have confused the dredging community. These requirements fit into five components of DNR's SUA process described in this clarification paper: application, reporting, fees, dredging project status, and other requirements. Additional information about DNR's DMMP office is available on DNR's website (<http://www.dnr.wa.gov/htdocs/aqr/dmmp/index.html>).

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SUA Application Process

Before dredgers may take dredged material to any of DNR's unconfined open-water dredged material disposal sites, they must obtain a valid Site Use Authorization (SUA) from the DNR's DMMP office. Before DNR's DMMP office will begin processing an application for a Site Use Authorization (SUA) the applicant must provide a complete application package. A typical application package includes a signed and fully completed Site Use Application, and copies of all other agency permits required for dredging and dredged material disposal. DNR's Site Use Application may be downloaded from DNR's web site (<http://www.dnr.wa.gov/htdocs/aqr/dmmp/pdfs/siteuseapp.pdf>). DNR will not process an incomplete application package.

Typical dredging projects require the following permits:

- U.S. Army Corps of Engineers permit
- Washington Department of Ecology Water Quality Certification
- Washington Department of Fish and Wildlife Hydraulic Project Approval
- Shoreline Substantial Development Permit or exemption letter

Other projects may require additional or different permits (CERCLA, MTCA, etc.). Application packages, including copies of all required permits, must be sent to DNR's DMMP office:

Department of Natural Resources
Aquatic Resources Division
ATTN: DMMP Manager
1111 Washington Street SE
PO Box 47027
Olympia, WA 98504-7027

Once DNR's DMMP office receives a completed Site Use Application and all required permits, it will take approximately two to three weeks to process the application and produce an unsigned SUA document.

The DMMP office will mail two copies of the SUA to the applicant along with an invoice for the application fee. The applicant must sign and date both copies as indicated, have these signatures notarized, and return them to DNR's DMMP office. Payment of all fees should be made to DNR's Financial Services Division (address provided on the invoice), as opposed to the DMMP office. After the applicant returns the signed and notarized documents, they must be signed by DNR. The applicant also must complete and sign the Plan of Operation for Use of Open Water Disposal Sites (Attachment A of the SUA), and must submit a dredging quality control plan (Stirling, SMARM 2005). After these are reviewed and accepted by DNR, the DMMP office will forward the signed Site Use Authorization to the applicant. This is typically handled at a pre-dredge meeting coordinated by the Army Corps of Engineers office in Seattle.

The SUA Grantee is responsible for timely submission of all required materials. Examples include both the quality control plan and Plan of Operation. The quality control plan is due at least seven (7) days prior to the pre-dredge meeting, and the Plan of Operation is due at least five (5) business days prior to disposal site use. Failure to meet these timelines will result in suspension of disposal privileges.

Once DNR's DMMP office has confirmed that all DNR and other DMMP agency concerns have been addressed the applicant may begin using DNR's unconfined, open-water, dredged material disposal site pursuant to the SUA conditions.

Reporting Requirements

DNR is committed to protecting the aquatic environment through stringent oversight of all disposal activities occurring under a SUA. DNR accomplishes this by imposing specific reporting requirements for every load of dredged material taken to one of DNR's unconfined open-water dredged material disposal sites. SUA Grantees must submit Disposal Site Use Reports (SURs) on a weekly basis, and Monthly Disposal Statements summarizing the previous month's disposals. While copied or faxed forms may be submitted to meet DNR's reporting timeline, all original forms must be provided to DNR's DMMP office.

Disposal Site Use Reports: As defined in every SUA, the Grantee is responsible for every barge load of dredged material taken to any of DNR's disposal sites. At the time of disposal the Tug Captain must complete and sign a Disposal Site Use Report (SUR) for every barge load. DNR will verify the authenticity of all SUR information including (but not limited to): signature, disposal coordinates, time, and volume. Disposal coordinates must be reported as latitude and longitude in degrees and minutes to the nearest one-hundredth of a minute (NAD83). All disposals must be recorded on the DNR-approved form, which may be found on DNR's DMMP website (<http://www.dnr.wa.gov/htdocs/aqr/dmmp/pdfs/siteusereport.pdf>).

The Grantee is responsible for forwarding the original, signed reports to DNR's DMMP office. All SUR forms must be filled out in their entirety and submitted by 12:00 (noon) on Wednesday of the week following the week being reported. A week is defined to begin on Monday and end on the following Sunday, typically leaving 2.5 working days to compile the report forms, verify that they are complete, and transmit them to DNR's DMMP office.

Monthly Disposal Statements: The Grantee is also responsible for completing and signing a Monthly Disposal Statement, which summarizes all disposal activities for any month during which dredged material disposal occurs. The monthly summary of disposals must be submitted on the DNR-approved Monthly Disposal Statement form, which may be found on DNR's DMMP website (<http://www.dnr.wa.gov/htdocs/aqr/dmmp/pdfs/monthlystatement.pdf>). This form must

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be filled out completely, signed by the Grantee, and received by DNR's DMMP office by the 20th day of the month following the one being reported.

Dredged Material Disposal Fees

Users of any of DNR's unconfined open-water dredged material disposal sites must pay disposal fees, which are assessed at a per cubic yard rate and subject to a minimum application fee. These fees are authorized under RCW 79.105.520, and defined under WAC 332-30-166. DNR estimates the costs of site management and environmental monitoring at aquatic land dredged material disposal sites and establishes fees for use of such sites to cover the estimated costs. All revenues are placed in the aquatic land dredged material disposal site account, which is used solely for the management and environmental monitoring of aquatic land dredged material disposal sites. Fees will be reviewed and adjusted annually or more often as needed. A damage fee may be charged for unauthorized dumping or dumping beyond the lease site.

The current fee structure is as follows:

<u>Region</u>	<u>Disposal Fee</u>	<u>Minimum Fee</u>
Puget Sound	\$0.45 per cubic yard	\$2,000.00
Strait of Juan De Fuca	\$0.45 per cubic yard	\$2,000.00
Grays Harbor	\$0.10 per cubic yard	\$300.00
Willapa Bay	\$0.10 per cubic yard	\$300.00

Damage fees may be assessed at \$5.00 per cubic yard.

All Site Use Authorization applications are subject to a minimum fee (established by region), which is applied toward total disposal fees as described below:

\$2,000 at \$0.45/cy equals disposal fees for 4444.44 cys pre-paid via minimum fee.

\$300 at \$0.10/cy equals disposal fees for 3000 cys pre-paid via minimum fee.

By signing and submitting the SUA application package, Grantee commits to paying the minimum fee regardless of whether the disposal site is used. Upon receipt of a complete application package, DNR will issue an invoice for the minimum application fee to the SUA applicant. DNR will issue subsequent invoices for all material in excess of amounts pre-paid via the minimum fee.

The applicant is required to submit fees along with the stub at the foot of all invoices to DNR's FINANCIAL MANAGEMENT DIVISION at the address provided on the invoice. DNR's DMMP office cannot accept payments and will return any payment sent. Payments must reference the SUA number and be accompanied by the invoice stub located on the bottom of the invoice. Late payments may be subject to penalties and interest.

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Dredging Project Status

Grantee is responsible for keeping DNR informed about the status of dredging that produces material intended for open water disposal. There are several components to this SUA requirement.

Modifications to the Plan of Operation: Grantee is responsible for requesting and receiving approval from DNR's DMMP office prior to making any changes to the Plan of Operation. Grantee must make this request at least 24 hours before the change can be implemented. Notification by Grantee, and subsequent approval by State, may be made verbally, however this must be followed by submission of a revised Plan of Operation within five (5) business days.

Notification of Dredging Initiation, Delays, and Completion: Grantee is responsible for notifying DNR's DMMP office by telephone at least 24 hours prior to every initiation of dredging operations. Grantee must also notify DNR when dredging operations will be interrupted. Finally, Grantee must notify DNR by letter immediately upon completing use of the site.

Disposal Volumes: Grantee is responsible for providing accurate disposal volumes to DNR's DMMP office. This volume shall be determined by pre- and post- dredging site measurements reported as acceptable by DNR. Grantee may use another method to determine disposal volumes only if DNR issues written approval prior to dredging. Final project disposal volumes are due to DNR no later than 30 days following completion of dredged material disposal operations.

Other Concerns

SUA implementation over the years highlights other concerns beyond those clarified above. These include confusion regarding who is responsible for meeting SUA requirements when the Grantee hires a subcontractor, and how the requirements of other regulations and permits are incorporated into the SUA.

The SUA is an agreement solely between DNR and the Grantee to allow disposal of suitable dredged material pursuant to the SUA conditions. When the dredging proponent, or SUA Grantee signs the SUA, they accept responsibility for ensuring that all conditions of the SUA are met. This includes responsibility for the actions of any subcontractor hired by the Grantee. Regardless of whether the Grantee assigns responsibility for SUA requirements to a subcontractor, DNR will hold Grantee – not the contractor – responsible for meeting all SUA conditions and requirements. If the subcontractor fails to meet any SUA requirement, the Grantee will be held legally and financially responsible.

Finally, DNR will not authorize any activity in conflict with other law, regulation, permit, or license of any public authority affecting the disposal site premises and the use thereof. While the specific terms and conditions of these other authorities may not be explicitly

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stated in the SUA, DNR requires the SUA Grantee to abide by these other requirements as a condition of the SUA. DNR may suspend or revoke the SUA for violation of any of these other requirements, and may charge the Grantee a fee for any damages associated with these violations.

For additional information regarding DNR's DMMP office, please review DNR's web page (<http://www.dnr.wa.gov/htdocs/aqr/dmmp/index.html>), or contact:

Department of Natural Resources
Aquatic Resources Division
ATTN: DMMP Manager
1111 Washington Street SE
PO Box 47027
Olympia, WA 98504-7027

Phone: (360) 902-1083
Fax: (360) 902-1786

E-mail: DMMP@wadnr.gov

NOTE:

Substantive updates between the public review draft (4/25/2005) and the final clarification paper (10/19/2005) include:

- Updates to DNR web pages
- Updates to DNR Site Use Authorization application requirements