



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 13, 2015

U.S. Army Corps of Engineers
Portland District Civil Works
ATTN: Ms. Joyce E. Casey
P.O. Box 2946
Portland, OR 97208-2946

RE: Water Quality Certification Order No. **11254** for Corps Project No. **CENWP-PM-E-10-03, 403890 – Phase 2**, MCR - North Jetty Critical Repairs, within Cape Disappointment State Park, Ilwaco, Pacific County, Washington

Dear Ms. Casey:

On January 22, 2015, the U.S. Army Corps of Engineers, Portland District Civil Works submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the MCR –North Jetty Critical Repairs Project Pacific County, Washington.

The proposed project will construct a haul road and up to two turn-outs on top of the existing jetty; construct an access ramp on the landward side of the jetty; construct staging and stockpile areas; rework existing jetty stone and place up to approximately 50,000 tons of new jetty stone along a 1400 foot length of the North Jetty.

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 Lori Kingsbury at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

By certified mail 7012 2920 0000 1182 1864



cc: Barbara Cisneros, Corps of Engineers, Portland District
Rick Schwartz, WA DNR
Christopher Conklin, WDFW
Faith Taylor-Eldred, Pacific County
Tim Crose, Pacific County

e-cc: Mr. Dale Beasley
ECY RE FEDPERMITS
Loree Randall – Ecology, HQ SEA
Deb Cornett – Ecology, SWRO WQ
Lori Kingsbury – Ecology, SWRO SEA
Rick Mraz – Ecology, SWRO SEA
George Kaminsky – Ecology, HQ SEA

IN THE MATTER OF GRANTING A) ORDER No. 11254
WATER QUALITY) Corps Project No. CENWP-PM-E-10-03,
CERTIFICATION TO) 403890, Phase 2
U.S. Army Corps of Engineers) Mouth of the Columbia River (MCR) North Jetty
Portland District Civil Works) Critical Repairs – Phase 2, Stone Placement,
in accordance with 33 U.S.C. 1341) within Cape Disappointment State Park, Ilwaco,
(FWPCA § 401), RCW 90.48.120, RCW) Pacific County, Washington
90.48.260 and Chapter 173-201A WAC

TO: U.S. Army Corps of Engineers
Portland District Public Works
ATTN: Joyce Casey
P.O. Box 2946
Portland, OR 97208-2946

On January 22, 2015, the U.S. Army Corps of Engineers, Portland District Public Works (Corps) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification for the Mouth of the Columbia River (MCR) North Jetty Critical Repairs – Phase 2, Stone Placement Project. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on February 4, 2015.

The proposed project consists of the following primary components:

- Construction of a haul road and up to two turn-outs on top of the existing jetty prism;
- Construct a 30-40 foot-wide access ramp located on the landward side of the jetty;
- Construction of staging and stockpile areas;
- Reworking of existing jetty stone and placement of up to approximately 50,000 tons of jetty stone along approximately 1,400 feet of the jetty length.

This project is located at the mouth of the Columbia River within Cape Disappointment State Park, Ilwaco, Pacific County, Washington; SE and SW Quarter of Section 8 and NE Quarter of Section 17, Township 9 North, Range 11 West; WRIA 24, Willapa Watershed.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and,

3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. 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, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the U.S. Army Corps of Engineers, Portland District Civil Works and its agents, assignees and contractors.
2. For the purposes of this Order, all submittals required by its conditions shall be sent either by regular mail to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, P.O. Box 47775, Olympia, WA 98504-7775 or via e-mail (preferred) to loch461@ecy.wa.gov.
3. All submittals and notifications shall be identified with Order No. **11254**, Corps Project No. **CENWP-PM-E-10-03, 403890, Phase 2** and include the Applicant's name, project name, and project location.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) submittal package received by Ecology on January 22, 2015. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA referenced above is voided by subsequent changes to the project not authorized by this Order.
5. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.

7. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
11. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i).
 - a. The area of mixing established for marine waters is a 150-foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - b. A visible turbidity plume anywhere at or beyond the 150-foot point of compliance from the activity shall be considered to be an exceedance of the standard.
2. Water Quality Monitoring: The Applicant shall conduct water quality monitoring as described in the U.S. Army Corps of Engineers, Portland District, *Water Quality Protection and Monitoring Plan for Section 401 Individual Water Quality Certification, Mouth of the Columbia River, North Jetty Critical Repairs – Phase 2, Stone Placement (WQPMP)* dated July, 2014.
3. Ecology must approve, in writing, and changes or additions to the WQPMP.
4. Reporting: Results of the water quality monitoring shall be documented in a Monitoring Report and submitted to the Ecology Federal Permit Manager, weekly during the period

of in-water work activities, per Condition A.2 of this Order. At a minimum, the Report must include:

- a. Date and time sample was collected;
 - b. Sample location;
 - c. Sample results for each corresponding monitoring location;
 - d. Name of person collecting sample;
 - e. Weather conditions at the time of monitoring.
5. Water Quality Exceedances: If water quality exceedances are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, correct the problem and prevent further water quality turbidity exceedances. If an exceedance occurs, the Applicant shall follow the procedures below.
6. Notification of Exceedances: Notification of exceedances shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made with reference to Order No. 11254, Attn: Federal Permit Manager, by telephone at (360) 407-6926 or by e-mail at loch461@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:
- a. A description of the nature, extent, and cause of the exceedance.
 - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
 - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - d. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, water quality monitoring results and location, photographs, and any other pertinent information.
7. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

C. Timing Requirements:

1. This Order shall remain in effect for a period of five (5) years from date of issuance.

D. Notification Requirements:

1. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with Condition A.2, for the following activities:
 - a. Prior to the onset of in-water work for **each construction season**.
 - b. Within ten (10) days **after completion of construction for each project season**.

- c. **Immediately** following a violation of the state water quality standards or any condition of this Order.
2. If project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every 12 months thereafter until project construction is complete.

NOTE: These notifications shall include the Applicant's name, the Project name, Order No. 11254, Corps Project No. CENWP-PM-E-10-03, 403890 – Phase 2, the project location, contact name, and contact's phone number.

E. Project Specific Conditions:

General Construction

1. The Applicant shall comply with the conditions of the current Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
2. The Applicant shall submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) to Ecology's Southwest Regional Office Federal Permit Manager for review per Condition A.2. of this Order.
3. All work in and near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts.
4. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) outlined in the SWPPP shall be in place at before starting clearing, filling, and grading work and shall be maintained throughout construction.
5. Within the project limits, all environmentally sensitive areas that are to be protected from disturbance shall be fenced with high visibility construction fence (HVF) prior to commencing construction activities. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries.
6. All clearing limits, travel corridors, stockpile locations, and staging areas shall be clearly marked prior to commencing construction activities and maintained until all work is completed for this project.
7. Staging areas will be located a minimum of 50 feet from waters of the state, including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the setback area.
8. Appropriate BMPs shall be implemented to minimize track-out during construction.
9. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands a minimum of 100 feet from waters of the state including wetlands, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.

10. No petroleum products, fresh concrete, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
11. All equipment that will operate over or within waters of the state shall utilize biodegradable hydraulic fluid and shall be free of external petroleum-based products. Accumulation of soils or debris shall be removed from the drive mechanisms and the undercarriage of equipment prior to use. Equipment shall be inspected daily for leaks, accumulation of grease, etc. Any identified problems shall be fixed before operating over or within waters of the state.
12. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands.
13. All construction debris, excess sediment, and other solid waste material shall not be stockpiled below the Ordinary High Water Mark (OHWM) and shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
14. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a Spill Prevention and Containment Plan for all aspects of this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these situations occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall

- begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
- e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, and within 24 hours of spills or other events Ecology's Federal Permit Manager at (360) 407-6926 or (360) 407-6300.
 - f. Submit a detailed written report to Ecology's Federal Permit Manager within five (5) days (per condition A.2. above) that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
 4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing 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

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

CONTACT INFORMATION

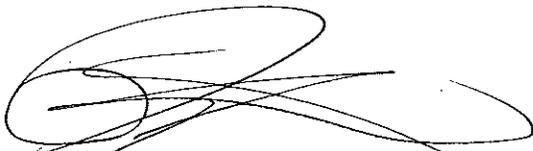
Please direct all questions about this Order to:

Lori Kingsbury, Federal Permit Manager
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
loch461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

3/13/15

Date



Attachment A
Statement of Understanding
Water Quality Certification Conditions

MCR – North Jetty Critical Repairs Project
U.S. Army Corps of Engineers, Portland District Civil Works
Water Quality Certification Order No. **11254**
and
Corps Project No. **CENWP-PM-E-10-03, 403890 - Phase 2**

I, _____, state that I will be involved as an agent or contractor for the U.S. Army Corps of Engineers, Portland District Civil Works, in the site preparation and/or construction of the MCR – North Jetty Critical Repairs Project, located at the mouth of the Columbia River within Cape Disappointment State Park, Ilwaco, Pacific County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **11254** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

